



VII. Location and Index of Rulemaking File:

A rulemaking file with attached file index is maintained at:  
California Fish and Game Commission  
1416 Ninth Street  
Sacramento, California 95814

VIII. Location of Department Files:

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

IX. Description of Reasonable Alternatives to Regulatory Action:

(a) Alternatives to Regulatory Action:

The motivation for the low-flow regulation changes was to protect and conserve fish populations during low-flow stream conditions, by eliminating sport fishery impacts, when fish are most vulnerable to environmental stress. No alternatives to regulation change were considered, as CDFW considers regulation change as the most effective solution for this issue.

(b) No Change Alternative:

The no change alternative would leave existing regulations in place and low-flow closures for central coast streams would be based upon a minimum flow level of 500 cfs on the Russian River measured at the stream gauge near Guerneville (Sonoma County). However, regulated flows of the Russian River represent the stream flow conditions of most central coast streams poorly because many of them have unregulated flows. This situation prevents these streams from being closed when local stream flow conditions warrant a sport fishery closure. The no change alternative would not provide the enhanced protection and conservation of coastal Chinook salmon, coho salmon and steelhead trout that are included in the proposed regulation changes. All three of these species are listed under the federal Endangered Species Act (ESA) and coho salmon is also listed under the California ESA. In addition, the no change alternative would prevent the establishment of low-flow closure regulation for the Russian River. The ESA listed salmonid populations of the Russian River would remain without a basic protection measure utilized on other coastal streams and continue to be vulnerable to fishing pressure under low-flow conditions.

(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, would be as effective and less burdensome to affected private persons than the adopted regulation, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

X. 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 fishing areas that will be affected are limited, and the number of anglers that will be affected is relatively small. In addition, many of the proposed changes will offer increased fishing opportunities with potential increases in economic activity related to spending by sport fish anglers.

(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 would provide additional sport fish angling opportunities in some areas. However, the increase in fishing activity is anticipated to be limited relative to recreational angling effort statewide. Therefore the Commission does not anticipate any impacts on the creation or elimination of jobs, the creation of new business, the elimination of existing business or the expansion of businesses in California.

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

The Commission does not anticipate any non-monetary benefits to worker safety.

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

(d) 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.

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

None.

(f) Nondiscretionary Costs/Savings to Local Agencies:

None.

(g) Programs Mandated on Local Agencies or School Districts:

None.

(h) 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.

(i) Effect on Housing Costs:

None.

## Updated Informative Digest/Policy Statement Overview

This Department proposal combines Department and public requests for Title 14, California Code of Regulations (CCR) changes for the 2014 Sport Fishing Review Cycle. This proposal will revise regulations on filleting of salmonids, extend low-flow restriction periods due to ongoing drought conditions, increase fishing opportunities for bass and other warm water species, minimize potential take of adult steelhead and native Paiute cutthroat trout, and make clarifications to other regulatory sections to reduce public confusion and improve regulatory enforcement.

The Department is proposing the following changes to current regulations

### **Filleting of Salmonids in Inland Waters**

In 2013, the Commission imposed a filleting requirement for all salmonids taken in inland waters. The regulation requires 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 angler's permanent residence, a commercial preservation facility or being prepared for immediate consumption. The purpose of this regulation is to protect federally and state-listed salmonids by giving the Department the ability to determine the origin (wild or hatchery), the species (Coho, Chinook or steelhead), and the size (jack or adult) of salmon and steelhead taken, possessed and transported.

The fillet rule is enforced statewide in anadromous waters for all designated angling seasons. Along the California Coast, there are two salmon species (Coho and Chinook) that have overlapping run timings. Chinook salmon can be harvested but Coho salmon are protected and are illegal to harvest. Because of their run timing overlap, the enforcement of the fillet rule is necessary to minimize illegal harvest of Coho salmon.

In the Central Valley there are four runs of Chinook salmon: winter, spring, fall and late-fall, however Coho salmon are not present. Winter and spring-run Chinook salmon are illegal to harvest and are protected through seasonal angling closures on the Sacramento River and its tributaries. Because there is no overlap of protected Chinook runs during the open harvest season (July-December), the fillet rule is not critical for the enforcement of illegal harvest.

Prior to the fillet rule, a large portion of anglers in the Central Valley would fillet their salmon prior to departure from the river for ease of transport and disposal of carcasses. Since the establishment of the rule, many anglers have expressed their disappointment and have asked the Department to provide a compromise to the rule. Based on these reasons, the Department is proposing an exception in the Central Valley to the current fillet rule to allow anglers to fillet their Chinook salmon on site during the Chinook salmon angling season. The exception would allow the filleting of Chinook salmon from July through December on the Sacramento, American and Feather rivers.

In addition, the Department is adding the definition of a Commercial Preservation Facility to the regulation. The proposed definition encompasses licensed fishing guides which will allow licensed guides to legally fillet salmon and steelhead for their clients. The addition of the proposed definition for the licensed fishing guide minimizes impact on guides by allowing continued angler services while also improving enforcement compliance. It also responds to recent Commission and public support for this modification.

### **Modify Dip Net Size Restriction for Landing Nets**

Current regulatory language in Section 2.09, Possession of Illegal Gear, restricts the size of landing-type dip nets used in statewide angling to 36 inches in greatest dimension. As worded, this regulation restricts the dip net opening and net bag length/depth to 36 inches. This restriction is a hindrance to freshwater anglers trying to land large species such as salmon, striped bass, and sturgeon. The intent of the 36-inch size restriction is to limit the harvest of bait fish. Therefore, the Department is proposing to amend the regulation to allow standard landing-type dip nets to be up to 36 inches in diameter across the net opening and up to 60 inches in net length/depth.

### **Add Dip Net Size Restriction for Bait Fish**

To reduce public confusion and enforcement issues, the Department proposes to amend Section 4.05, Bait Fish Capture Methods, to clarify that dip nets used for the purpose of collecting bait fish, in addition to traps, may not be over 36 inches in greatest dimension.

### **Black Bass - Lake Castaic**

The current regulation for black bass at Lake Castaic is outdated, and was enacted to protect a “trophy” black bass fishery. Lake Castaic has limiting factors that are not conducive to maintaining a large population of “trophy” black bass. Habitat for juvenile bass and sunfish is limited as shorelines are generally steep in both arms and contain a few small coves. Within these coves aquatic vegetation is lacking due to water level fluctuations. There is also a large healthy population of striped bass. The proposal is to amend the black bass regulation at Lake Castaic from 2 fish at 18 inches to 5 fish at 15 inches. This proposed amendment is the same or similar to other state waters; including but not limited to Lake Hodges, Diamond Valley, Lake Perris and Isabella Lake.

### **Black Bass - El Capitan Reservoir**

The current regulation for black bass at El Capitan reservoir is outdated. There is a healthy population of black bass within the reservoir, and virtually no harvest for consumption. The Department proposes to amend the black bass regulation at El Capitan Reservoir from 5 fish at 15 inches to 5 fish at 12 inches; changing the lake to the statewide minimum for black bass.

### **White Sturgeon - Method of Take**

Sections 5.80(d) and 27.90(d) are currently written using the word, “landing.” “Landing” is not defined in the Fish and Game Code. This creates confusion amongst anglers as

to what the regulation means by “landing.” It also has the potential to create a legal challenge by defendants during the prosecution of an arrest. The proposal is to replace “landing” with “take” which is defined in Title 14, Section 1.80.

### **White Sturgeon - Angling Boundary**

Section 5.80(i) is currently written in conflict with Section 5.80(i)(1)(A) through (C). This conflict creates confusion amongst anglers as to whether or not it is legal to fish for sturgeon on the eastern bank of the Sacramento River in Butte County. This also has the potential to create a legal challenge by defendants during the prosecution of an arrest.

Under the current regulation of Section 5.80(i)(1)(A) through (C) it is unlawful take any sturgeon, use wire leaders, or use lamprey or shrimp as bait, between Keswick Dam and the Highway 162 Bridge. The Sacramento River flows through Shasta, Tehama, Glenn and Butte counties, between these two landmarks. Section 5.80(i) states the closure is from January 1 to December 31 in Shasta, Tehama and Glenn counties. Butte County has been unintentionally omitted from the regulation.

### **Big Sur River**

Under current regulations, the harvest of hatchery trout and steelhead is allowed on the Big Sur River and tributaries above the upstream end of the gorge pool at the boundary of Pfeiffer Big Sur State Park with the Ventana Wilderness Area. However, this section of the Big Sur River is above a fish barrier and not reachable by anadromous salmonids. Therefore, the Department is proposing to remove the current regulatory language authorizing the harvest of hatchery trout and steelhead and return this section of the Big Sur River to catch and release angling. In addition, this proposal will remove the reference to Section 8.00, Low-Flow Restrictions, from Section (b)(23) as neither subsection of the Big Sur River, (b)(23)(A) or (b)(23)(b), is subject to low flow closures as defined in Section 8.00(c).

### **Calleguas Creek**

The Southern California Steelhead DPS was listed as endangered under the Federal ESA in 1997. The DPS includes all naturally spawned anadromous *Oncorhynchus mykiss* (steelhead) populations below natural and manmade impassable barriers in streams from the Santa Maria River, Santa Barbara County, California, (inclusive) to the U.S.-Mexico Border.

Despite the location of Calleguas Creek near the center of this endangered DPS, only a single dead adult steelhead trout was collected in Conejo Creek (Calleguas Creek tributary) in April of 2013. The stream is not currently monitored for the presence of steelhead. Very limited steelhead spawning habitat is available in Calleguas Creek and tributaries and all associated creeks are infested with non-native, exotic fish species.

Based on the discovery of the adult steelhead in Conejo Creek, the Department is proposing a seasonal closure for Calleguas Creek and tributaries to minimize the potential take of adult steelhead. Because the creek and its tributaries possess very

limited steelhead spawning habitat, and the drainage supports a large non-native fish community, we propose a seasonal closure as opposed to a complete closure to protect adult steelhead, while maintaining opportunities for recreational angling.

The current regulations allow year-round angling on Calleguas Creek and tributaries. There is a 5 fish daily bag/possession limit for trout. The regulation change will be consistent with similar drainages within Region 5 with seasonal closures. These streams will be open to angling from the Saturday proceeding Memorial Day through November 30th. Only artificial lures with barbless hooks may be used and the daily bag and possession limit will read: Open to fishing for non-salmonids only. Closed to the take of trout and steelhead.

### **Diaz Lake**

Diaz Lake is located within the boundary of the Inyo County, Southwestern portion regulation. The Inyo County regulation specifically calls attention to the Cottonwood Creek restrictions as they are within its boundary and have different seasons and bag limits. However, it does not call attention to the Diaz Lake regulation even though it has a second season and bag limit that is different from the Inyo County, Southwestern portion regulation. The proposed regulation change will reference the Diaz Lake restrictions in the Inyo County regulations. Additionally, the Department often receives calls as to whether or not Independence Creek, which is part of the boundary, is included in the regulation. To clarify, the Department proposes adding a statement that Independence Creek is open to fishing.

### **Las Garzas Creek**

Las Garzas Creek is misspelled as Las Gazas Creek in Title 14 and in the Sport Fishing Regulations Booklet. The proposal is to correct the spelling of the word Garzas.

### **Navarro River, Noyo River, and Ten Mile River**

The proposed regulation change is to remove “and tributaries” from the Navarro River, Noyo River, and Ten Mile River fishing regulations. Fishing is currently only allowed in the main stems of the Navarro River, Noyo River, Ten Mile River, and North Fork Ten Mile River. The reference to “and tributaries” in the regulations leads to confusion and requests for clarification from the public. The recommended regulation change clearly identifies the main stems of the Navarro River, Noyo River, Ten Mile River, and North Fork Ten Mile River as the sections open to fishing.

### **Pit River**

The proposed regulation change is for a section of the Pit River within Modoc County running from the Highway 395 bridge/South Fork Pit River crossing downstream to the Highway 299 (Canby) bridge/ Pit River crossing. This proposal would make this section of river open to fishing all year to increase angling opportunities for warm water fish. Currently this section of river is covered under the Sierra District General Regulations for trout, which is open the last Saturday in April through November 15.

Recent and historical surveys indicate that trout are not present within this section of river. Surveys conducted by United States Fish and Wildlife Service, duplicating historic sampling locations, did not find evidence of trout present (USFWS 2003), nor were trout present in the historic samples for the river reach proposed to be opened all year (USFWS 2003 and Vestra 2004). Moreover, many warm water species, such as catfish, green sunfish, blue gill, and possibly bass are present.

### **Silver King Creek**

The Department is proposing to close Silver King Creek and tributaries below the confluence of Tamarack Lake Creek (below Llewellyn Falls) downstream to the confluence with Snodgrass Creek to fishing all year. The proposed regulation change is necessary to protect native Paiute cutthroat trout, which are listed as threatened pursuant to the federal Endangered Species Act, by prohibiting angling in a portion of its historic range below Llewellyn Falls down to Snodgrass Creek. This segment of the stream will be restocked with Paiute cutthroat trout as part of a restoration project. Existing regulations prohibit fishing all year in Silver King Creek and tributaries including lakes above Llewellyn Falls in existing Paiute cutthroat trout habitat.

### **Trinity River**

In 2014, approximately 14 miles of the upper Trinity River were opened to winter angling and the new regulation was added to the Special Fishing Regulations. The same section of the upper Trinity River is also open to angling from the last Saturday in April through November 15 under the North Coast District General Regulations. To avoid public confusion, the Department is proposing to add the April through Nov. 15 angling season to the upper Trinity River Special Fishing Regulations.

### **Central Coast Low Flow Closures**

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

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

and 200 cfs, respectively.

The proposed regulation change will also establish a low-flow closure for the Russian River in Sonoma County. Presently, although the Russian River flow at the Guerneville gauge is used to regulate the low-flow closures on the coastal streams in Marin, Sonoma, and Mendocino County, as well as for Sonoma Creek, in Sonoma County, a low flow closure regulation for the Russian River has not been promulgated. Without a low-flow regulation, the Russian River is open to fishing during times when minimal flows are being released and fish are excessively vulnerable. The proposed minimum flow requirement for the Russian River is 300 cfs at the gauging station located on the main stem Russian River near Guerneville in Sonoma County.

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

#### **Sonoma Creek**

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

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

#### **Low-Flow Restrictions References**

Section 8.00, Low-Flow Restrictions, is referenced throughout the Special Fishing Regulations in Section 7.50. This proposal will add the Section 8.00 title and appropriate subsection to the existing references so the reader knows what Section 8.00 is and which subsection to refer to. In addition, this proposal will add the reference to Section 8.00 more frequently where the regulation applies. Adding this information will make it easier for anglers to understand and follow the regulations and makes the wording consistent with other references in Section 7.50.

#### **Low-Flow Restriction Time Period**

Section 8.00 provides fishing restrictions (closures) for specified rivers and streams during low flow conditions to protect Chinook salmon and wild steelhead

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

The Department proposes to correct an existing error in the telephone information number in subsection 8.00(a).

#### **Minor Editorial Corrections for Clarity**

Additional minor corrections are proposed to correct typographical errors and to improve regulation clarity.

**The Fish and Game Commission adopted the proposed regulations which were noticed on August 22, 2014, and amended in a continuation notice on October 14, 2014, without any additional changes, at its December 3, 2014 meeting.**