

Of the 76 petitions, two had additional comments as follows:

- (2) Comment. Anthony Cox added, "*Kokanee limits should be 10 with 20 in possession. All other bag limits should remain the same as long as the species is separated, but who we kidding this probably will never happen and our kokanee are going to keep getting smaller with over populated lakes with fish*"

Response. The Department is considering for the 2016 regulation change cycle an increase in the bag limit for kokanee salmon in certain waters.

- (3) Comment. Lynn Streit added, "*Limit should be 10. No more than 5 of any one species*"

Response. The Department believes that a bag limit of 5 kokanee salmon for anglers fishing multiple days on certain waters is too restrictive.

VI. 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

VII. Location of Department Files:

Department of Fish and Wildlife
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.

- (c) Consideration of Alternatives:

In view of information currently possessed, no reasonable alternative considered would be more effective in carrying out the purpose 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.

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 is not anticipated to 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 expected impact of the proposed regulations on the amount of fishing activity is anticipated to be minimal relative to recreational angling effort statewide.

(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 expected impact of the proposed regulations on the amount of fishing activity is anticipated to be minimal 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.

(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 combines Department and public requests for changes to Title 14, California Code of Regulations (CCR), for the 2015 Sport Fishing Regulations Review Cycle. This proposal will clarify regulations for snagging, landlocked salmon, San Francisco and San Pablo Bays, Solano Lake, and reptiles. The proposed regulatory changes are needed to reduce public confusion and improve regulatory enforcement. Additionally, this proposal will add a new fishing restriction to protect sturgeon, and increase fishing opportunities on the Sacramento River.

The Department is proposing the following changes to current regulations:

Snagging Definition

Subsection 2.00(b) would be amended to further define snagging. The current snagging definition states that it is illegal to impale a fish in any part of its body **other than the mouth**. This makes it legal for anyone to keep a fish that has been hooked on the outside of the mouth, such as a hook that enters from the lower jaw into the mouth or nose into the mouth. The proposal is to reword the definition to say **other than inside the mouth**. Subsections 2.00(b) and (c), and Section 1.05 will need to be amended for consistency.

Proposal: Amend Section 1.05, Angling, and subsections 2.00(b) and (c), Fishing Methods - General

Amend the regulations to clarify that it is illegal to take a fish not hooked on the inside of the mouth.

Landlocked Salmon Definition

Current regulations are inconsistent in their treatment of landlocked salmon. Kokanee salmon (*Oncorhynchus nerka*) are included in the definition of "Trout," while stocked, landlocked Chinook salmon are included in the definition of "Salmon," which also includes anadromous forms of salmon. Scientific evidence, including life history variation and behavioral differences, suggests the need for differing management strategies for these species. They should be separately defined and addressed in the freshwater sport fishing regulations. In addition, these new species definitions need to have associated bag and possession limits.

Proposal: Amend Section 1.86, Trout, and Section 7.00, District General Regulations; Add sections 1.57 and 5.41, Landlocked Salmon

This proposal creates a new definition for landlocked salmon which will include kokanee and landlocked Chinook salmon. The daily bag limit will be 5 fish and the possession limit will be 10 fish in a new Section 5.41 and not contained in Section 7.00.

Amend the District General Regulations to revise the references to “trout and salmon” to just “trout.” Amend the daily bag and possession limits to reference the total number of trout or landlocked salmon in combination. This change is proposed to reduce public confusion with landlocked salmon versus anadromous salmon that are allowed only in the Section 7.50 Special Regulations since the General District Regulations has the take of anadromous salmon closed statewide.

Reptile Regulation Correction

A numbering error has been identified in Section 5.60, specifically subsections (b)(10) through (b)(14). The regulation incorrectly reads, “Species No. 9-13 have a limit of twenty-five (25) in the aggregate.” It should read, “Species in subsections (10) through (14) have a limit of twenty-five (25) in the aggregate.” Correcting the numbering mistake will alleviate confusion amongst sport fisherman and wildlife officers.

Proposal: Amend subsection (b) of Section 5.60, Reptiles

Correct the numbering errors in this section to reduce public confusion and enforcement issues.

Sturgeon Fishing Closure and Snagging Revision

Green sturgeon and white sturgeon (subadults and adults) are often stranded for long periods in the Yolo Bypass as well as the Toe Drain and Tule Canal upstream of Lisbon Weir. Some of those fish escape when environmental conditions change but others are rescued or succumb. Through catch-and-release, legal harvest, and poaching, anglers could take both species when stranded. The legal fishery on stranded fish is not sporting, reduces the benefit of rescue efforts, and reduces population spawning potential. Because green sturgeon is a threatened species and white sturgeon is a substantial management concern, addressing this issue is relatively urgent. Therefore, the Department is proposing to prohibit the take and possession of sturgeon in the Yolo Bypass as well as the Toe Drain and Tule Canal upstream of Lisbon Weir at any time.

Current regulations in subsection (d) of Section 5.80 state that a sturgeon must voluntarily take the bait or lure *in* its mouth. This language is proposed to be revised to read *inside* its mouth, to be consistent with proposed revisions to the snagging definition in Section 2.00.

Proposal: Add subsection (j) to Section 5.80, White Sturgeon and amend subsection (d) Methods of take.

Prohibit fishing for sturgeon in the Yolo Bypass Flood Control System to protect green and white sturgeon; Amend the regulations to clarify that it is illegal to take a fish not hooked on the inside of the mouth for alignment with the proposed snagging definition changes to Section 2.00.

Green Sturgeon Revision for Brevity

Take and possession of green sturgeon is prohibited by law. Section 5.81, Green Sturgeon, subsection (d) designates a special fishing closure for sturgeon in the Sierra and Valley District. This special fishing closure is also provided under Section 5.80, White Sturgeon. Because fishing for green sturgeon is prohibited statewide, this regulation is not needed in the regulations for Green Sturgeon.

Proposal: Amend Section 5.81, Green Sturgeon, to remove subsection (d).

Improves clarity and eliminates unnecessary regulatory language regarding the special sturgeon closure for sturgeon in the Sierra and Valley District.

Red Bluff Diversion Dam

Current regulations restrict fishing from 500 feet upstream to 150 feet below Red Bluff Diversion Dam (RBDD). RBDD is no longer operated as an irrigation diversion so the current restrictions about fishing near a dam are no longer needed. Boaters, recreationists, and fish are free to pass up and downstream of the area at will. The angling public is very interested in fishing in the immediate vicinity of the RBDD now that it is no longer in operation and the Sacramento River is not impounded by its gates. The proposal is to allow shore and boat angling above and below RBDD on the Sacramento River.

Proposal: Amend Special Fishing Regulations subsection 7.50(b)(156.5), Sacramento River

Remove the current fishing restriction above and below RBDD on the Sacramento River to increase angling opportunities in Tehama County.

Solano Lake

The proposal is to add Solano Lake to Section 7.50, *Alphabetical List of Waters with Special Fishing Regulations*. The original intent was for Solano Lake to be included in the Putah Creek special fishing regulations. That regulation applies to the stream reach from Solano Lake to Monticello Dam and does not include Solano Lake. Therefore, a new subsection needs to be added to Section 7.50.

Proposal: Add subsection (b)(180.6), Solano Lake, to Section 7.50 Special Fishing Regulations

Add a new regulation for Solano Lake to the Special Fishing Regulations. The daily bag and possession limit will be 0 (zero).

San Francisco and San Pablo Bays Clarification

Currently there are three sections dealing with the Ocean and San Francisco Bay District which describe regulations in different manners causing confusion for anglers and making enforcement of the regulations more difficult:

- Section 27.00 defines the Ocean and San Francisco Bay District as waters of the open coast and includes San Francisco and San Pablo Bays *“plus all their tidal bays, tidal portions of their rivers and streams, sloughs and estuaries”* between the Golden Gate Bridge and the Carquinez Bridge.
- Section 1.53 defines inland waters as all fresh, brackish and inland saline waters of the state, including lagoons and tidewaters upstream from the mouths of coastal rivers and streams. *Inland waters exclude the waters of San Francisco and San Pablo Bays downstream from the Carquinez Bridge, the tidal portions of rivers and streams flowing into San Francisco and San Pablo Bays, and the waters of Elkhorn Slough, west of Elkhorn Road between Castroville and Watsonville.*
- Subsection 28.65(a) (which describes gear restrictions for fin fish) defines the area as San Francisco and San Pablo Bays between the Golden Gate Bridge and the west Carquinez Bridge, where only one line with not more than three hooks may be used.

The different definitions of the same geographic area cause confusion as to applicable method of take as well as which set of regulations apply to the waters being fished.

An angler is allowed to use any number of hooks and lines in ocean waters (Section 28.65). In Inland waters only one closely attended line with no more than three hooks may be used (Section 2.00). Under the current regulations, a person could argue that tidal portions of the Napa River were not Inland Waters and since subsection 28.65(a) did not include the tidal portions of river flowing into San Francisco and San Pablo Bays. Under this interpretation, they could use any number of lines and hooks to fish in the Napa River. This would restrict waters of San Francisco and San Pablo Bays to one line, then allow unlimited lines in the Napa River waters which were tidally influenced even though all inland waters are restricted to one line.

In addition, fishing regulations for Ocean Waters defined in Section 27.00 are different from Inland Waters as defined in Section 1.53. Since tidal influence cannot easily be determined, it is almost impossible to know which set of regulations apply in the tidally influenced waters. For instance is an undersized sturgeon caught in the Napa River a violation of Section 5.80 or Section 27.90?

To simplify the regulations and make these sections consistent, all three sections must use the same reference.

The proposal is to amend sections 27.00 and 1.53 to align with subsection 28.65(a) and remove the reference to tidal bays and tidal portions of rivers and streams from these two sections. As a result, inland waters will now include the tidal portions of rivers and streams flowing into San Francisco and San Pablo Bays which will be subject to the gear restrictions for inland waters where only one closely attended rod and line with no more than three hooks may be used.

Proposal: Amend Section 1.53, Inland Waters, and Section 27.00, Ocean and San Francisco Bay Definition

Amend the two regulations that define the San Francisco and San Pablo Bays to be consistent, reducing public confusion and enforcement issues. Remove capitalized text before the note which is a printing error.

Fishing Contest Draw Dates

The current wording of subsection 230(b)(1)(A) designates specific dates for a drawing that is conducted annually by Department personnel to allocate Type A fishing contest permits in a fair manner. Dates are the second Friday of July for bodies of water north of the Tehachapi Mountains and the third Friday of July for waters south of the Tehachapi Mountains.

Specific designation of these dates can conflict with major fishing-related events that contest sponsors often need to attend (e.g., International Convention of Allied Sport fishing Trade – ICAST). Sponsors who must attend the ICAST show—an international conference of fishing gear manufacturers, media, and many others—cannot simultaneously attend the contest drawing, hindering the conflict resolution process for which the drawing is held.

The Department is proposing to amend the regulations to state that the contest drawings will be conducted in July and the dates will be determined by Department staff.

Proposal: Amend subsection (b)(1)(A) of Section 230, Issuance of Permits for Contests Offering Prizes for the Taking of Game Fish

Amend the regulations to change the current contest drawing dates to unspecified dates in July which will be determined by Department staff.

Minor Editorial Corrections for Clarity

In addition to the above proposals, minor editorial 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 21, 2015, without any changes, at its December 10, 2015 meeting.