

dilemma, Mr. Strickland supported Alternative No. 1 and recommended analyzing its effectiveness for a period of time.

Response: Mr. Strickland's support for the preferred alternative was acknowledged. However, the Commission did not adopt any proposed changes to hook sizes, lure weights, or leader length at their December 9, 2005 meeting. Also see No. 3 below.

2. Mr. Paul Weakland, 11/04/05, oral comments.

Comment: Mr. Weakland commented that inexperienced and untrained anglers often unintentionally snag fish. Mr. Weakland recommended that anglers be required to pass an examination prior to being issued a fishing license.

Response: This recommendation is outside the scope of the proposal and would require a Statutory amendment.

3. Mr. Bill Pennell, 11/14/05, email comments.

Comment: Mr. Pennell expressed his opposition to the proposed regulation change that would limit leader length to 48 inches. Mr. Pennell requested the Department to provide facts that support the concept that leader length exceeding 48 inches causes snagging.

Response: Currently the Department has no data to support snagging efficacy based on leader length, however, this topic was discussed at the public meetings and it was the consensus of the group, which was made-up of both Department personnel and angling groups, that this regulation change would reduce the amount of foul-hooked salmon. The Department has also proposed changes in hook size and weights that would affect both anglers in boats and on shore. Because the leader-length issue was not a fishery resource problem and a significant number of public comments were opposed to the proposal, the Commission did not adopt the proposed 48-inch maximum leader-length amendment.

4. Mr. Evan Blasingame, 11/18/05, email comments, and 12/09/05 Commission meeting, oral testimony.

Comment: Mr. Blasingame is opposed to the proposed restriction of a maximum leader length of 48 inches. He indicates that the use of leaders longer than 48 inches is very popular and employed by many law-abiding anglers. The 48-inch leader-length restriction would impact many legitimate anglers and would take away a popular fishing method unnecessarily. Mr. Blasingame also expressed his opinion that any fish hooked in the mouth was not snagged by definition.

Mr. Blasingame also expressed opposition to the proposed definition of non-buoyant lure. He felt it was too broad and included legitimate artificial lures such as flies and beads.

In his oral comments Mr. Blasingame also expressed opposition to the proposed definition of the term weight. He indicated that the definition was inadequate when applied to leaded fly-line.

Response: See No. 3 above. Current regulations define angling “to take a fish by hook and line . . . in such a manner that the fish voluntarily takes the bait or lure in its mouth.” The use of long leaders often causes the fish to be hooked in the mouth involuntarily, and therefore, a fish hooked in such a manner is illegally caught.

The term “non-buoyant lure” is used in regulatory language and currently not defined; the definition is proposed for clarification purposes. It is a definition only and does not restrict or limit the use of non-buoyant lures.

The proposed definition of the term weight is meant to include all weight used for the purpose of casting or sinking a lure or bait. Depending upon the specific regulation where the term weight is used, it could include leaded fly-line if an exception is not specified. The intent of defining the term weight is to distinguish “weight” from “lure” for clarity purposes.

5. Mr. Tim Metz, 11/18/05, letter.

Comment: Mr. Metz is opposed to setting the maximum leader length to 48 inches. He also thinks the proposed definition of weight is insufficient because it does not distinguish various fishing methods that use weight. Mr. Metz also believes that any fish hooked in the mouth is legally hooked.

Response: See No. 3 and 4 above. The term “weight” is used in regulatory language and currently not defined; the definition is proposed for clarification purposes. It is a definition only and does not restrict or limit the use of any weight.

6. Mr. Steve DeMuri, 11/23/05, email comments.

Comment: Mr. DeMuri urged the Commission to implement the 48-inch maximum leader-length restriction as soon as possible. He indicated that long leaders were resulting in many snagged fish.

Response: Comment acknowledged. Because the leader-length issue was not a fishery resource problem and a significant number of public comments were opposed to the proposal, the Commission did not adopt the proposed 48-inch maximum leader-length amendment.

7. Mr. Tom Halterman, 11/23/05, email comment.

Comment: Mr. Halterman is opposed to restricting the maximum length of leaders to 48 inches. Based on his experience using leaders 6 to 9 feet in length, most of the fish he has caught have been hooked on the mouth. He apparently considers any fish hooked in the mouth as not snagged.

Response: See No. 3 and 4 above.

8. Mr. Eric Whitney, 11/18/05, email comments.

Comment: Mr. Whitney opposes the proposed 48-inch maximum leader restriction. While acknowledging the technique can be abused he believes it has a legitimate use by ethical anglers and often times one of the better methods used to catch salmon or steelhead.

Response: See No. 3 above.

9. Mr. Ron Garcia, 12/03/05, email comments.

Comment: Mr. Garcia expressed opposition to limiting maximum leader length to 48 inches. He has used long leaders for years and feels it is a legitimate fishing method that does not snag fish and does not cause harm to the salmon fishery. Mr. Garcia also indicated that the proposed regulation was not well publicized prior to being presented to the Commission.

Response: The Department held three public meetings to receive comments about the salmon snagging issue and to discuss possible regulations that might reduce the incidence of snagging. The maximum leader-length proposal was a result of consensus by various angling interests and groups that attended the meetings. See No. 3 above.

10. Mr. Harry Fitzpatrick, 11/18/05, email comments, and 12/09/05 Commission meeting, oral testimony.

Comments: Mr. Harry Fitzpatrick expressed opposition to the proposed restriction of leader length to 48 inches. He indicated that the restriction would unfairly limit the ability to catch salmon and enjoy the salmon resource. Mr. Fitzpatrick questioned if any science was used to determine the 48-inch maximum leader length.

Response: See No. 3 above.

11. Mr. Thomas Fitzpatrick, 12/09/05 Commission meeting, oral testimony.

Comments: Mr. Thomas Fitzpatrick expressed opposition to the proposed restriction of leader length to 48 inches. He indicated that the restriction would unfairly limit his ability to catch salmon and enjoy the salmon resource.

Response: See No. 3 above.

12. Mr. Bob Boucke, 12/09/05 Commission meeting, oral testimony.

Comments: Mr. Boucke was opposed to the proposed hook gap restriction. He felt that it should be applied to jigs only to reduce the impact of hook-size restrictions on striped bass and sturgeon anglers.

Response: The proposal to change hook gap regulations was not adopted by the Commission. The Department will continue to investigate the technique of "jigging" and how it may be affecting the salmon and steelhead resources. The Department may return in the future with a proposal that addresses the "jigging" issue.

13. Mr. Paul Weakland, 12/09/05 Commission meeting, oral testimony.

Comments: Mr Weakland indicated that proposed regulations will not solve salmon poaching and snagging problems. The solution is through increased law enforcement and improved angler ethics.

Response: Increased law enforcement could reduce illegal angling activity, however, because of fiscal limitations within the Department's budget, additional enforcement effort is not on the immediate horizon. The Department acknowledges that in some fisheries improved angler ethics is needed. Instilling angler ethics is accomplished through education and outreach, not through the regulatory process.

14. Mr. Bob Strickland, United Anglers of California, 12/09/05 Commission meeting, oral testimony.

Comments: Mr. Strickland indicated that because of new information recently related to him regarding how bank fishermen would be adversely affected by the proposed 48-inch maximum leader-length restriction, he is withdrawing his support for that proposal. He also indicated that the salmon-snagging problem is mainly a problem with jig fishermen. He recommended that the Commission consider adopting the Delta definition clarification and the weight and lure definitions, and not adopting the hook gap and leader length proposal.

Response: The Department at the urging of Mr. Strickland and others initially considered the leader length restriction concept. The use of long leaders is not causing an over harvest of the salmon fishery but seems to be a question of whether angling with long leaders is ethical. As indicated in No. 12 above, the Department is willing to investigate gear restrictions related to the use of the jigging technique with the goal of reducing salmon snagging. Mr. Strickland's support of the other proposals is acknowledged. The Commission adopted the items supported by Mr. Strickland.

15. Mr. Joseph Tomlinson, 11/18/05, email comment.

Comment: Opposed to the 48-inch maximum leader-length proposal.

Response: See No. 3 above.

16. Mr. Thomas Amberson, 11/21/05, email comment.

Comment: Opposed to the 48-inch maximum leader-length proposal.

Response: See No. 3 above.

17. Mr. Larry Dennis, 11/21/05, email comment.

Comment: Supports the 48-inch maximum leader-length proposal. Mr. Dennis also requested smaller hook sizes to reduce snagging.

Response: Support is acknowledged. However, the Commission did not adopt the 48-inch maximum leader-length proposal, nor did the Commission choose to adopt proposed smaller hook-gap sizes than current regulations indicate. See No. 6 and No. 12 above.

18. Mr. Ken Brunskill, 11/22/05, email comment.

Comment: Supports the 48-inch maximum leader length proposal.

Response: Support is acknowledged. See No. 6 above.

19. Mr. Joseph Castro, 11/22/05, email comment.

Comment: Supports the 48-inch maximum leader length proposal.

Response: Support is acknowledged. See No. 6 above.

20. Mr. Paul Hayhurst, 12/06/05, email comment.

Comment: Does not support any changes to fishing tackle regulations.

Response: Comment acknowledged. The Commission did not adopt any proposed changes to fishing tackle regulations.

21. Dr. Rick Staub, Ph.D., 11/30/05 letter

Comment: Opposed to 48-inch maximum leader length proposal because it is not a resource issue and long leaders do not increase the rate of snagging. He states that this is a popular method used by bank fishermen.

Response: See No. 3 above.

VII. Location and Index of Rulemaking File:

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

VIII. Location of Department files:

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

IX. Description of Reasonable Alternatives to Regulatory Action:

- (a) Alternatives to Regulation Change: Five options have been provided for consideration. No other alternatives were identified.
- (b) No Change Alternative: The changes are necessary to clarify the regulations and protect fishery resources.
- (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.

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 initial 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 regulation clarifies existing regulations, and adds additional fishing gear restrictions to protect salmon and steelhead. These regulation changes are unlikely to have negative impacts on businesses.

Alternatives 2 through 5 would potentially adversely affect some fisheries by eliminating the use of traditional gear. These alternatives are also likely to adversely affect fishing supply businesses by reducing the demand for some types of traditional fishing gear. These impacts are not expected to be significant

- (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 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) Non-discretionary 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.

Updated Informative Digest/Policy Statement Overview

Current regulations define the term “hook gap”, and restrict hook gap sizes that anglers may use in rivers and streams within the state. For single hooks, the maximum hook gap is one inch, and for multiple-point hooks the maximum gap is 3/4 inch. Current regulations for all rivers and streams also prohibit the use of multiple hooks or more than one single hook on non-buoyant lures exceeding one ounce in weight.

Based on an analysis of the comments expressed at the three August-September public meetings, the Department is proposing five alternatives for proposed regulation changes.

The Initial Statement of Reasons contained three alternatives. One alternative would restrict the use of multiple-point hooks on lures exceeding one ounce but would not restrict the lure weight when single hooks are used. The other two alternatives would restrict the use of multi-point hooks on non-buoyant lures while allowing the use of single hooks on non-buoyant lure of any weight. Discussions at public meetings included prohibiting the use of any non-buoyant lure exceeding one ounce to reduce the capability to intentionally snag fish. The Department intended to have the Commission consider all recommendations discussed and agreed to during the three public meetings. The Initial Statement of Reasons inadvertently omitted alternatives that prohibited the use of non-buoyant lure exceeding one ounce. The two additional alternatives (numbers 4 and 5) reflect the lure-weight prohibition to be considered by the Commission. Alternative 1 remains the Department’s preferred alternative.

Alternative No. 1 (preferred alternative)

Note: This alternative continues the current regulation that allows the use of multiple-point hooks on non-buoyant lures not exceeding one ounce, and allows the use of single hooks on non-buoyant lures exceeding one ounce.

1. In all rivers and streams statewide (except the Sacramento-San Joaquin River Delta and the Colorado River), reduce the maximum hook gap for single hooks from one inch to 3/4 inch, and for multiple-point hooks, reduce the maximum gap from 3/4 inch to 5/8 inch.
2. In all rivers and streams statewide (except the Sacramento-San Joaquin River Delta and the Colorado River), limit the maximum leader length between any hook and any weight to 48 inches.
3. Add definitions for “lure”, “non-buoyant lure” and “weight”.
4. Include clarifying terms to the definition of the Sacramento-San Joaquin River Delta.

Alternative No. 2

Same as Alternative No. 1 except this alternative includes a prohibition on the use of multiple-point hooks or more than one single hook on non-buoyant lures in rivers and streams statewide, except in the Sacramento-San Joaquin River Delta and the Colorado River. This alternative allows the use of single hooks on non-buoyant lures exceeding one ounce.

1. In all rivers and streams statewide (except the Sacramento-San Joaquin River Delta and the Colorado River), reduce the maximum hook gap for single hooks from one inch to 3/4 inch, and for multiple-point hooks, reduce the maximum gap from 3/4 inch to 5/8 inch.
2. Prohibit the use of multiple-point hooks or more than one single hook on non-buoyant lures in rivers and streams statewide (except the Sacramento-San Joaquin River Delta and the Colorado River).
3. Limit the maximum leader length between any hook and any weight to 48 inches in rivers and streams statewide (except the Sacramento-San Joaquin River Delta and the Colorado River).
4. Add definitions for "lure", "non-buoyant lure" and "weight".
5. Include clarifying terms to the definition of the Sacramento-San Joaquin River Delta.

Alternative No. 3

Alternative No. 3 differs from Alternatives 1 and 2 by prohibiting the use of multiple-point hooks on non-buoyant lures in a specific reach of the Sacramento River and the anadromous portions of the American, Feather and Yuba rivers (not statewide). This alternative allows the use of single hooks on non-buoyant lures exceeding one ounce outside the specified areas of the Sacramento, Feather, American, and Yuba Rivers.

1. In all rivers and streams statewide (except the Sacramento-San Joaquin River Delta and the Colorado River), reduce the maximum hook gap for single hooks from one inch to 3/4 inch, and for multiple-point hooks, reduce the maximum gap from 3/4 inch to 5/8 inch.
2. Prohibit the use of multiple-point hooks on non-buoyant lures in the main stem Sacramento River from the Business 80/Highway 50 Pioneer Bridge upstream to the Deschutes Road bridge (near Redding), in the American River downstream of Nimbus Dam to the mouth, in the Feather River downstream of the Table Mountain bicycle bridge in Oroville to the mouth, and in the Yuba River downstream of Daguerre Point Dam to the mouth.

3. Limit the maximum leader length between any hook and any weight to 48 inches in rivers and streams statewide (except the Sacramento-San Joaquin River Delta and the Colorado River).
4. Add definitions for “lure”, “non-buoyant lure” and “weight”.
5. Include clarifying terms to the definition of the Sacramento-San Joaquin River Delta.

Alternative No. 4

Alternative No. 4 differs from Alternatives 1, 2, and 3 by prohibiting the use of non-buoyant lures that exceed one ounce.

1. In all rivers and streams statewide (except the Sacramento-San Joaquin River Delta and the Colorado River), reduce the maximum hook gap for single hooks from one inch to 3/4 inch, and for multiple-point hooks, reduce the maximum gap from 3/4 inch to 5/8 inch.
2. In all rivers and streams statewide (except the Sacramento-San Joaquin River Delta and the Colorado River), prohibit the use of non-buoyant lures that exceed one ounce in weight.
3. In all rivers and streams statewide (except the Sacramento-San Joaquin River Delta and the Colorado River), limit the maximum leader length between any hook and any weight to 48 inches.
4. Add definitions for “lure”, “non-buoyant lure” and “weight”.
5. Include clarifying terms to the definition of the Sacramento-San Joaquin River Delta.

Alternative No. 5

Alternative No. 5 differs from Alternative 1 by prohibiting the use of non-buoyant lures that exceed one ounce. It differs from Alternatives 2 through 4 by prohibiting the use of non-buoyant lures exceeding one ounce in a specific reach of the Sacramento River and the anadromous portions of the American, Feather and Yuba rivers (not statewide).

1. In all rivers and streams statewide (except the Sacramento-San Joaquin River Delta and the Colorado River), reduce the maximum hook gap for single hooks from one inch to 3/4 inch, and for multiple-point hooks, reduce the maximum gap from 3/4 inch to 5/8 inch.
2. Prohibit the use of non-buoyant lures that exceed one ounce in weight in the main stem Sacramento River from the Business 80/Highway 50 Pioneer Bridge upstream to the Deschutes Road bridge (near Redding), in the American River downstream of Nimbus Dam to the mouth, in the Feather River downstream of the Table Mountain bicycle bridge in Oroville to the mouth, and in the Yuba River downstream of Daguerre Point Dam to the mouth.

3. Limit the maximum leader length between any hook and any weight to 48 inches in rivers and streams statewide (except the Sacramento-San Joaquin River Delta and the Colorado River).
4. Add definitions for “lure”, “non-buoyant lure” and “weight”.
5. Include clarifying terms to the definition of the Sacramento-San Joaquin River Delta.

The Department’s preferred alternative is Alternative No. 1. Restricting the use of multiple-point hooks on non-buoyant lures or all hooks on non-buoyant lures exceeding one ounce are recommendations stemming from public meetings with the intention of reducing the incidence of snagging salmon and steelhead. Previous regulation changes have reduced lure weights, and Alternative No. 1 further reduces the size of hooks and the length of leaders allowed in rivers and streams (not including the Sacramento-San Joaquin River Delta and the Colorado River). Because the salmon resources in the Sacramento, American, Feather and Yuba rivers are not being over harvested under current regulations, the Department believes additional restrictions are not warranted. Prohibiting the use of multiple-point hooks on non-buoyant lures or all hooks on non-buoyant lures exceeding one ounce would have adverse effects on other fisheries and fishing supply businesses because the restriction would eliminate many traditional fishing lures that have been used legally for decades.

Editorial changes are also proposed to improve the clarity and consistency of the regulations. These changes included descriptive statements designed to change and clarify the boundaries of the Sacramento-San Joaquin Delta associated with section 1.71.

At its December 9, 2005 meeting, the Commission adopted the proposed addition of sections 1.60, 1.61 and 1.93 and the proposed amendment of Section 1.71. The Commission did not adopt the proposed amendments of sections 2.10 and 7.50.

Section 1.60, Title 14, CCR, is added to read:

1.60 Lure.

A manufactured article or object equipped with one or more hooks designed to attract or catch fish.

NOTE:

Authority cited: Sections 200, 202, 205, 210, and 220, Fish and Game Code.

Reference: Sections 200, 202, 205, 206, 209, 210, 215 and 220, Fish and Game Code.

Section 1.61, Title 14, CCR, is added to read:

1.61 Non-buoyant lure.

Any lure that sinks in freshwater.

NOTE:

Authority cited: Sections 200, 202, 205, 210, and 220, Fish and Game Code.

Reference: Sections 200, 202, 205, 206, 209, 210, 215 and 220, Fish and Game Code.

Section 1.71, Title 14, CCR, is amended to read:

§1.71. Sacramento-San Joaquin River Delta.

The Sacramento-San Joaquin River Delta includes all rivers, sloughs, canals, cuts, forebays, and flooded islands within the area south of Interstate 80 to its junction with Highway ~~Business~~ 850, and south of Highway ~~Business~~ 850 via the Pioneer Bridge to its junction with Highway 99, west of Highway 99, north of Interstate 580, 205, and Highway 120, and east of Interstate 680.

NOTE:

Authority cited: Sections 200, 202, 205, 215 and 220, Fish and Game Code. Reference: Sections 200, 202, 205, 206, 215 and 220, Fish and Game Code.

Section 1.93, Title 14, CCR, is added to read:

1.93. Weight.

Any object directly or indirectly attached to a fishing line with the purpose of casting or sinking a lure or bait.

NOTE:

Authority cited: Sections 200, 202, 205, 210, and 220, Fish and Game Code.

Reference: Sections 200, 202, 205, 206, 209, 210, 215 and 220, Fish and Game Code.