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STATE OF CALIFORNIA

Fish and Game Commission

November 18, 2005

TO ALL AFFECTED AND INTERESTED PARTIES:

This is to provide you with a copy of a continuation notice of proposed regulatory action relative to sections 1.60, 1.61, 1.71, 1.93, 2.10 and 7.50, Title 14, California Code of Regulations, concerning fishing methods restrictions. Please note the date of the public hearing related to this matter and deadline for receipt of written comments.

Also enclosed for your review is a copy of the Pre-Adoption Statement of Reasons, with an Updated Informative Digest/Policy Statement Overview and the proposed regulatory language showing changes to the original proposal. Please note that the originally proposed language is shown in underline/~~strike out~~ format and the new proposed language is shown in **underline**/~~strike out~~ format.

Sincerely,

Sherrie Koell
Staff Services Analyst

Attachments

TITLE 14. Fish and Game Commission Notice of Proposed Changes in Regulations

**(Continuation of California Notice Register 2005, No. 42-Z,
and Meetings of September 30 and November 4 , 2005.)**

NOTE: The Fish and Game Commission is exercising its powers under Section 202 of the Fish and Game Code as the following changes to the proposed regulations may not be available to the public for the full public comment period prior to adoption. See the text of this notice – changes are shown in **bold** type.)

NOTICE IS HEREBY GIVEN that the Fish and Game Commission (Commission), pursuant to the authority vested by sections 200, 202, 205, 210, 215 and 220 of the Fish and Game Code and to implement, interpret or make specific sections 200, 202, 205, 206, 209, 210, 215 and 220 of said Code, proposes to amend sections 1.71 and 2.10, and subsections (b)(5), (b)(68), (b)(156) and (b)(212) of Section 7.50, and add new sections 1.60, 1.61 and 1.93, Title 14, California Code of Regulations, relating to fishing methods restrictions.

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.**

NOTICE IS ALSO GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the James W. Kellogg Training Center, 935 Detroit Avenue, Concord, California, on Friday, December 9, 2005, at 8:30 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 5, 2005 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 7, 2005. All comments must be received no later than December 9, 2005, at the hearing in Concord, CA. All written comments must include the true name and mailing address of the commentor.

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, Robert R. Treanor, 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 Robert R. Treanor or Sherrie Koell at the preceding address or phone number. **Dr. Ed Pert, Chief, Fisheries Programs Branch, Department of Fish and Game, phone (916) 445-3616 and Dennis P. Lee, Supervising Biologist, Department of Fish and Game, phone (916) 358-2833, have 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 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 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 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

Jon K. Fischer
Assistant Executive Director

Date: November 18, 2005