

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

NOTICE IS HEREBY GIVEN that the Fish and Game Commission, pursuant to the authority vested by sections 200, 202, 205, 220 and 315 of the Fish and Game Code and to implement, interpret or make specific sections 200, 202, 205, 206 and 220 of said Code, proposes to add sections 5.81 and 27.91; to amend sections 1.62, 1.63, 1.67, 2.00, 5.00, 5.80, 7.00, 7.50, 27.60, 27.65, 27.90, 27.95, 28.20, 29.70, 29.80, 195, and 701, Title 14, California Code of Regulations, regarding Sport Fishing Regulations for 2007-2009.

Informative Digest/Policy Statement Overview

**Amend Sections 1.62, 5.80, 27.60, 27.90, 27.95, 195, and 701
Add Sections 5.81 and 27.91
Re: Sturgeon Sport Fishery Regulations**

California's green sturgeon and white sturgeon support a popular sport fishery in the San Francisco Estuary and Sacramento-San Joaquin River System and a lesser fishery in the ocean. Green sturgeon and white sturgeon are prone to overfishing due to their life-histories and behavior. Their numbers are also subject to decline attributable to habitat loss and habitat degradation. White sturgeon (in particular) are subject to organized poaching and illegal commercialization of their highly-valuable eggs and flesh.

Current fishing regulations for these two sturgeon species provide a year-round fishery, a daily bag and possession limit of one fish, a size limit of 46 to 72 inches total length, and area and seasonal closures. These regulations do not differentiate between different life histories and population status, ignore the population-effects of varying production of young sturgeon, can not manage the boom-and-bust character of the fishery, and make it difficult to deter poaching and illegal commercialization.

The Department of Fish and Game (Department) is proposing regulations which will facilitate existing efforts to improve California's sturgeon populations and protect the sturgeon fishery by improved habitat, better fish passage, increased population and fishery monitoring, effective enforcement, and comprehensive coordination with the public.

The proposed regulations include a size limit for white sturgeon of 46 to 60 inches total length, no retention of green sturgeon, a daily bag limit of one white sturgeon, an annual bag limit three white sturgeon, no authorization of boat limits when sturgeon fishing in ocean waters, and an annual sturgeon report card with tags.

If the regulations proposed here are implemented and substantially enforced, the fundamental character of California's sturgeon fishery will be preserved while important additional fishery management, population management, and anti-poaching measures will be effected.

Section 1.62, Title 14, CCR: Section 1.62 addresses handling requirements for fish to be released due to size restrictions. However, Section 1.62 references only handling of fish that are less than the legal size.

The proposed amendment to Section 1.62 would extend the protections now afforded fish less than legal size to fish greater than legal size. Handling requirements afforded fish – particularly sturgeon – greater than legal size are basic conservation measures designed to minimize stress and mortality to captured fish that must be released.

Sections 5.80 and 27.90, Title 14, CCR: These sections limit retention of sturgeon for inland (Section 5.80) and ocean (Section 27.90) waters. The current sections do not differentiate between white sturgeon and green sturgeon.

The proposed amendment removes green sturgeon to their own section and includes measures to improve white sturgeon spawning potential, population resiliency, fishery data, and anti-poaching efforts:

- (1) a white sturgeon size limit of 46 to 60 inches total length,

- (2) a 3-fish-per-year white sturgeon bag limit,
- (3) specific requirements for a Sturgeon Fishing Report Card, and
- (4) a requirement to apply tags to retained white sturgeon.

The size limit would protect approximately 12 year-classes of sturgeon from harvest during a period when female sturgeon of this size and age have tremendous reproductive potential.

The 3-fish annual bag limit would allocate the sturgeon resource more-equitably and reduce the incentive for illegal commercialization of sturgeon.

The report card with tags would be necessary to enforce the annual bag limit and to collect much-needed information on catch of sturgeon by anglers. Because enforcement of the annual bag limit and collection of catch data are both very important, possession of the card and use of the tags would be required of children and other potentially non-licensed anglers (e.g., those participating fishing from piers). These potentially non-licensed anglers were recently estimated at about 16 % of all anglers in marine waters during 2004 and 2005.

Sturgeon Fishing Report Card Requirements

- (1) Any person fishing for sturgeon shall have in their possession a nontransferable Sturgeon Fishing Report Card issued by the department
- (2) This includes anglers who are under 16 years of age, anglers who are fishing from a public pier, and anglers who hold a lifetime fishing license. Anglers who are under 16 years of age may purchase a sturgeon fishing report card without purchasing a sport fishing license.
- (3) A Sturgeon Fishing Report Card shall be valid for the calendar year as shown on the report card.
- (4) No person may purchase more than one Sturgeon Fishing Report Card per year or possess any Sturgeon Fishing Report Card other than their own.
- (5) Anglers must return their card by January 31 of the following year shown on the report card to the address specified on the Sturgeon Fishing Report Card.
- (6) If the angler holds a sport fishing license, the report card number shall be entered in ink on the angler's sport fishing license, and the sport fishing license number shall be entered in ink on the report card on the appropriate line.
- (7) Whenever the cardholder catches a sturgeon, whether the fish is retained or released, the cardholder shall use a ball point pen to immediately record on the Sturgeon Fishing Report Card all of the following information: month and day, catch location, and species of sturgeon. If a white sturgeon is retained, the total length of the fish must also be recorded on the report card immediately.

Sturgeon Tagging Requirements

- (1) A Sturgeon Fishing Report Card includes three tags that are to be used to tag any white sturgeon that is retained.
- (2) After retaining a white sturgeon the date the fish is taken shall be immediately recorded on the tag with a ball point pen.
- (3) The angler shall immediately attach the tag to the body of the white sturgeon, and leave the tag in place until the fish is processed, steaked, or filleted for consumption and stored at a residence or non-transient location.

Sections 5.81 and 27.91, Title 14, CCR: This action would create sections specific to green sturgeon for inland (Section 5.81) and ocean (Section 27.91) waters, eliminate retention of green sturgeon, and complement the proposals to amend sections 5.80 and 27.90 so that it addresses only limits to white sturgeon retention.

Section 27.60, Title 14, CCR: This section limits retention of sturgeon in ocean waters. With regards to sturgeon, it is simply a table that reiterates information in Section 27.90.

The proposed amendment would make contents of the table consistent with Section 27.90 and no authorization of boat limits while sturgeon fishing in ocean waters to align with proposed Section 195

changes. Furthermore, the amendment would complement the proposed establishment of Section 27.91 on green sturgeon retention.

Section 27.95, Title 14, CCR: This section limits take of sturgeon in an area of San Francisco Bay between January 1 and March 15. The proposed amendment is a slight wording change that would complement the proposed changes to sections 27.90 and 27.91.

Section 195, Title 14, CCR: This section contains the regulations for boat limits in ocean waters. The proposed amendment has no authorization of boat limits while sturgeon fishing in ocean waters to ensure accurate data is collected from the report cards.

Section 701, Title 14, CCR: This section contains regulatory form numbers that are incorporated by reference and their fees which are adjusted annually pursuant to the provisions of Section 699, Title 14, CCR.

The proposed amendment provides the annual fee updates for the Declaration for Multi-Day Fishing Trip, Permit Authorizing Transit of a Recreational Fishing Vessel Through Areas Closed to Fishing (Annual and 30 days or less) forms, adds 2007 Salmon Punch Card and 2007 Steelhead Fishing Report and Restoration Card form numbers and fees to this section, reflects the required changes made to sections 5.80 and 27.90 for the Sturgeon Fishing Report Card.

The Sturgeon Fishing Report Card fee will range from \$0 to \$7.50, which are the minimum and maximum permit prices that the Department can charge without legislation. The final fee will be determined from report card printing and administration costs, final funding source, the projected anglers and a 5% license agent handling fee calculated pursuant to Fish and Game Code 1055(b).

Minor changes were made to improve the clarity of the regulations.

Amend Section 1.63 Re: Movement of Live Fish

Currently Section 1.63, Title 14, California Code of Regulations (CCR), reads "Except as provided in sections 4.00 through 4.30 and 230, live fin fish taken under the authority of a sport fishing license may not be transported alive from the water where taken."

The phrase "taken under the authority of a sport fishing license" creates a loophole. Juveniles under the age of 16 are not required to possess a sport fishing license when fishing. This means that a juvenile could transport live sport taken fin fish and not be in violation of the law. Additionally, it could be argued that persons taking fin fish without first obtaining a sport fishing license would not be in violation of this section.

Lake Davis is a prime example of the adverse effect of transporting certain fish species from one location to another. The lake, which once supported a superb rainbow trout fishery, has now been taken over by northern pike believed to be illegally transplanted from unknown sources outside of California or possibly from nearby Frenchman Reservoir, where pike had also been illegally introduced. This pike population now threatens native salmon and steelhead populations found downstream in the Sacramento-San Joaquin river systems and Delta.

This regulations proposal will add additional language to clarify that it is illegal to transport live fin fish any time by anybody, unless otherwise authorized. These proposed regulations will reduce public confusion and improve enforceability of the regulations.

Amend Section 1.67 Re: Native Reptiles and Amphibians

Currently Section 1.67, Title 14, California Code of Regulations (CCR), leaves its intent open to possible misinterpretation. Some may interpret that specific specimens of amphibians and reptiles that are imported into California, which are the same species or subspecies of indigenous California animals, are not native

to California pursuant to Section 1.67. Such an interpretation can result in importation of reptiles and amphibians, although of the same species or subspecies as indigenous California specimen, for commercialization purposes. This can then lead to illegal commercialization of specimens that originate from the wild in California but are presented as being imported from another state.

Section 1.67 should be clearly understandable by both those who enforce and those who are directly affected by state regulations. Unclear regulatory language can cause an additional burden of proof which may hinder effective enforcement of Title 14 sections that rely on, at least in part, the definition of amphibians and reptiles found in Section 1.67. If the courts determine that regulations are not clear it can result in lack of prosecution of people illegally commercializing and/or poaching California native reptiles and amphibians.

Section 1.67 does not currently state that an individual specimen claimed to have been taken or produced in another state is nonetheless a native specimen, since it is of a species or subspecies indigenous to California. The more clearly this definitive section is the better it serves the enforceable Title 14 sections which are meant to protect native species and subspecies of amphibians and reptiles.

The regulations proposal directly states that the definition includes all specimens regardless of their origin. This will address the interpretation issue since it readily eliminates origin as a consideration for what specimens would not be considered native.

Amend Section 2.00 Re: Fishing Methods - General

Section 2.00, Title 14, California Code of Regulations (CCR), outlines statewide fishing methods in inland waters, with some exceptions. Currently, the section states that fish may be taken by “angling” with one closely attended rod and line. Angling is defined as, “to take fish by hook and line with the line held in the hand, or with the line attached to a pole or rod held in the hand or closely attended in such manner that the fish voluntarily takes the bait or lure in its mouth.”

There is nothing in Section 2.00 that specifically states an individual cannot keep snagged fish. Section 2.00 is commonly used when a citation is written to a subject for keeping a snagged fish and when citing a subject for unlawfully using more than one line in inland waters. This citing section sometimes confuses court personnel. They see Section 2.00 and assume the citation was issued for using more than one line, which is less heinous, than unlawfully snagging and keeping a fish unlawfully.

Since the section does not specifically mention or define snagging the language is confusing to judges and court personnel. In order to cite for Section 2.00 officers must also explain the definition of angling in their report as well as to the court. In addition, when laws are unclear or confusing there is greater propensity for courts to dismiss cases resulting in lost revenue to the Department.

This regulations proposal adds additional language that clearly states its illegal to kill or retain a fish that did not actively take the bait or lure in its mouth and requires these fish to be released immediately unharmed into the water. The proposed changes will reduce public confusion and improve enforceability of the regulations.

Amend Sections 5.00 and Subsection 7.50(b)(68.3) and Repeal Subsection 7.50(b)(73.5) Re: Black Bass Seasons in Inyo, Shasta, Modoc, and Mono Counties and Repeal of Haiwee Reservoir Special Fishing Regulations

Under the current black bass regulations, it is legal to fish closed trout waters in Inyo and Mono counties for black bass all year. Enforcement staff is encountering increasing numbers of anglers that claim to be bass fishing while actually catch and release fishing for trout. During informal conversations with several anglers and one local fishing guide/outfitter, Enforcement has been told that some people are advocating catch and release trout fishing during closed trout season. In order to circumvent the current regulations, these anglers can claim to be bass fishing when contacted by a Warden. These areas are prized trout areas and the proposed regulation changes will help eliminate fishing for trout and the potential for hooking mortality on trout during the closed season.

Section 5.00(b)(5), is in direct conflict with Section 7.00(b)(7). Section 5.00 (b)(5), Title 14, CCR, states that all waters of Mono County are open to black bass fishing all year while Section 7.00 (b)(7), states that Mono County waters are closed to all fishing when closed to trout fishing, except for unrestricted portions of Fish Slough which are open to fishing all year.

These proposed regulations will close the streams in the southwest portion of Inyo County (Section 7.00(b)(2), to black bass fishing when the trout season is also closed and align the Mono County regulations in sections 5.00(b)(5) and 7.00 (b)(7). These proposed regulation changes clarify conflicting regulations, reduce public confusion, and improve enforceability of the regulations.

Also in Inyo County, Haiwee Reservoir listed in sections 5.00(b)(16) and 7.50(b)(73.5), was closed by the Los Angeles Department of Water and Power (LADWP) to all public access, including fishing. This closure eliminates take-concerns outside of the general regulations and existing regulations could cause confusion for the public that the Haiwee Reservoir Special Fishing regulations may supersede LADWP's authority regarding trespass on LADWP lands. This proposed regulation is to remove Haiwee Reservoir from sections 5.00(b)(16) and 7.50(b)(73.5), to allow it to be covered under general fishing regulations and revise Section 7.50(b)(68.3), due to the renumbering of Section 5.00(b). This proposed regulation change will clarify conflicting regulations and reduce public confusion.

In Shasta County, Section 5.00(b)(7), allows for a year round black bass open season, while Section 7.00(b)(4), limits the fishing season on Big Lake to the last Saturday in April through November 15. Big Lake clearly falls into the seasonal closure specified in Section 7.00(b)(4). The prevalent public view has been that Big Lake is open year round to the taking and possession of black bass. Big Lake is fed by a series of artesian springs along its north shore in the vicinity of Ahjumawi Lava Springs State Park. The water temperature in winter months is warmer where the water flows from these springs and largemouth bass use this area as a thermal refuge. Local anglers have discovered this phenomenon and have been targeting largemouth bass during the fishing closure specified in Section 7.00 (b) (4). This regulation proposal is to remove Big Lake from the Shasta County black bass regulations in Section 5.00(b)(7) and place it in the Individual Bodies of Water section under a new Section 5.00(b)(9) with a season that runs from the last Saturday in April through November 15. This proposed regulation changes clarify conflicting regulations, reduce public confusion, and improve enforceability of the regulations.

In Modoc County, Big Sage Reservoir is incorrectly identified as "Sage Reservoir" in Section 5.00(b)(4). The Big Sage Reservoir is the only correct name as shown on the Modoc National Forest and United States Geological Survey Quad series maps. This proposed regulation change would change the name to Big Sage Reservoir to provide consistency with identification of this body of water.

Minor changes are proposed to improve the clarity of the regulations.

Amend Subsections 7.00(c)(3) and (f)(5)
Re: North Central Coast and Southern Districts General Regulations

Currently Section 7.00(c)(3), Title 14, California Code of Regulations (CCR), states the tide waters of all streams except those listed by name in the Special Regulations are closed to fishing all year in the North Central District. If a person were to only look at this section in the regulations, without first looking at sections 6.32, 1.53 and 27.00, they would think the tide waters of all streams in this district were closed to fishing.

Additional language needs to be added to this section referring readers to look at the definition of inland waters as well as the definition of the Ocean and San Francisco Bay District. Once these two definitions are read it is clear that the tide waters of streams entering into the Ocean and San Francisco Bay district waters are open to fishing.

There are several popular fishing areas along rivers that have tidal waters within the North Central District. By adding a sentence directing readers to these two definitions, it would clarify what tidal influenced waters were open to fishing for both the public and enforcement officers.

Currently Section 7.00(f)(5), Title 14, CCR, has Robles Diversion Dam as the upper limit of anadromy on the Ventura River. A fish ladder and fishway for passing federally-endangered Southern steelhead was completed on the Robles Diversion Dam in Fall, 2003 through a joint effort by the Bureau of Reclamation, Casitas Municipal Water District (CMWD), National Marine Fisheries Service (NMFS), California Coastal Conservancy and the Department. In Spring, 2005, CalTrout requested that the Commission consider adoption of an emergency regulation change closing the waters between the Robles Diversion and the next barrier to anadromy, which is located at the Wheeler Gorge Campground in the Los Padres National Forest. In Summer, 2005, Department staff conducted snorkel surveys of the area and found numerous juvenile and adult trout but found no evidence of ocean-run fish. In Spring, 2006, CMWD biologists submitted video evidence to the Department and NMFS showing adult steelhead passing through the fish ladder following several storm events. The video images have been verified to be adult steelhead returning to the Ventura River from the ocean by NMFS and Department staff.

Section 7.00(f)(5) allows trout to be taken for sport in all streams and tributaries (except those listed by name in the Special Regulations) above Twitchell Dam on the Cuyama River, above Bradbury Dam and below Gibraltar Dam on the Santa Ynez River, Robles Diversion on the Ventura River, and Rindge Dam on Malibu Creek. Current regulation also specifies the season and bag limit.

The proposed regulatory change will expand the closed waters on the Ventura River from the Robles Diversion to the base of Matilija Dam on Matilija Creek and to the Wheeler Gorge Campground operated by the United States Forest Service on North Fork Matilija Creek in Ventura County. The change will result in approximately 4 miles of stream being closed for the protection of Southern steelhead, which is listed as a federally-endangered species. This change will also make the freshwater sport fishing regulations consistent with the Endangered Species Act and the critical habitat designation on the Ventura River established by the Department of Commerce in August, 2005.

Minor changes are proposed to improve the clarity of the regulations.

Amend Section 27.65
Re: Rockfish Fillet Provisions

Depending on the species taken and the fishing location, recreational anglers may fillet their fish while fishing aboard vessels as described in regulations of Section 27.65, Title 14, CCR. Special regulations for filleting are needed so that other regulations defining minimum size limits are enforceable. Once a fish is filleted, it is often difficult or impossible to determine what species of fish the fillet originated from. Without special fillet regulations, individuals would be able to fillet fish at sea that were not of minimum size, and avoid enforcement of those limits when returning to port.

A minimum fillet size is provided for most species for which there is a minimum size limit, and regulations also specify additional requirements including how much skin must be left attached to the fillet, so that the species of fish can be readily identified.

Recreational anglers, and particularly the Commercial Passenger Fishing Vessel (CPFV) fleet, often prefer to fillet their catch at sea to ease waste disposal issues and to preserve the quality of the catch.

Subsection (b)(8) specifies the fillet rules for rockfish. Bocaccio is the only species of rockfish that has a minimum size limit (10 inches), and the corresponding minimum fillet size is five inches. Present regulations in this subsection, however, also require a 6.5-inch minimum size for "brown-skinned" rockfish fillets.

Rockfish, and particularly rockfish fillets, look very similar in appearance to kelp bass fillets, and can easily be confused. Kelp bass have a minimum size limit of 12 inches and a corresponding fillet size limit of 6.5 inches. Therefore, to ensure the minimum size limit for kelp bass was adhered to, regulations were also needed for rockfish fillet sizes.

However, when those regulations for kelp bass and rockfish fillets were established many years ago, there was no requirement that the skin be left intact on the entire rockfish fillet. At that time, the regulations required only that rockfish fillets have a one-inch by one-inch patch of skin left attached to the fillet.

In 2004, the regulations in (b)(8) for rockfish fillets were amended, and the skin patch requirement was eliminated in favor of the requirement that all rockfish fillets must have the entire skin left attached. This change was needed to improve identification of rockfish species, which became increasingly important for enforcement staff to be able to do, given new regulations that prohibit retention of certain species of rockfish such as cowcod, canary and yelloweye rockfish.

However, when that 2004 amendment was made, the requirement that all “brown skinned” rockfish fillets must be 6.5 inches was inadvertently left in place. Today, the regulation no longer serves its intended purpose, since there is no longer any potential confusion between bass fillets and rockfish fillets, since rockfish fillets now must have the entire skin intact.

The “brown-skinned” regulation has also proven to be vague and confusing to the public and enforcement staff alike, given that there is no definition of “brown skinned rockfish” provided in any regulation of Title 14. Because rockfish often have varying color patterns that are shades of brown, red, orange, gray, copper and pink, there is no distinct measure of which rockfish are “brown skinned” and which are not.

Moreover, the regulation has proven to be burdensome for anglers who wish to fillet their rockfish that are “brown skinned” but are of a size that cannot produce a fillet that is at least 6.5 inches long. This is most often the case for squarespot, gopher and calico rockfish, which are species which would almost certainly be classified as “brown skinned,” yet are generally small. Consequently, in practice, these fish are often released or discarded in exchange for a fish that can legally be filleted at sea, although the fish is otherwise legal to retain.

Based on the aforementioned reasons, the Department recommends the Commission remove the requirement that “brown skinned” rockfish fillets be 6.5 inches in length, as the regulation is no longer necessary for ongoing protection of the kelp bass resource, is needlessly confusing and vague, and is likely adding to rockfish discard rates.

Amend Section 28.20
Re: Pacific Halibut Season and Size Limit

Regulations of Section 28.20, Title 14, CCR, specify a season, bag limit, and a 32-inch minimum size limit for Pacific halibut for California’s recreational fishery. The Department proposes the Fish and Game Commission amend these regulations to make them consistent with new federal regulations established by the International Pacific Halibut Commission (IPHC) that became effective for federal waters off California (beyond three miles) in March of 2006.

The proposed change would extend the open sportfishing season for Pacific halibut one month, so that fishing would be permitted from May 1 through October 31 each year. Additionally, the IPHC has eliminated the minimum size limit in federal waters off California. This was done because the original intent of the size limit was to slow catch rates, and under present biomass levels and management strategies, there is not a need to slow catch rates in the recreational fishery off California.

Pacific halibut are primarily targeted off Alaska, Washington and Oregon, where they are more abundant, and northern California is the southernmost portion of their range. In California, Pacific halibut are a species that are generally taken incidental to other fisheries, and occur only rarely in sport catches. Between 1980 and 2005, only 21 Pacific halibut were observed statewide by creel census samplers who work year-round surveying sport-caught fish at all major marine recreational fishing sites in California. Moreover, during the same time period, anglers only reported catching 13 Pacific halibut that were released.

The Department is aware of only a few small charter businesses that target Pacific halibut in the Fort Bragg and Crescent City areas. However, extension of the open season and elimination of the minimum size limit might allow for minor increases in fishing opportunity for this species in northern California.

Amend Section 29.70
Re: Recreational Limit on Jumbo and Market Squid

While they have been a focus of sport and commercial fisheries off northern Mexico for many years, in California, jumbo squid (*Dosidicus gigas*) primarily have been taken only incidental to other recreational fisheries. However, in the past few years, jumbo squid appear to be increasingly prevalent off California, and accordingly have become a growing target for the State's recreational anglers. They can span up to six feet in length and weigh over 100 pounds, and are taken offshore by both private boats as well as the Commercial Passenger Fishing Vessel (CPFV) fleet.

As a result of increased fishing activity directed toward this resource, anglers have sought clarification from Department wardens and biological staff as to the bag limit on jumbo squid. Section 29.70 specifies that there is no recreational limit on "squid". Meanwhile, Section 29.05 specifies a "general invertebrate" limit of 35, which applies for any invertebrate species where a bag limit is not otherwise specified.

When one refers to "squid" in California waters, the term is commonly understood to mean the market squid, *Loligo opalescens*, which is readily abundant and is often used as bait for other game species in California waters. It is also the target of one of California's largest commercial fisheries.

Because no bag limit is specified for jumbo squid, anglers have sought clarification whether Section 29.70 applies to the take of jumbo squid, or if the general invertebrate limit of 35 is the regulation that governs. To clarify this situation, the Department proposes that the regulatory text of Section 29.70 be amended to specify that there is no limit on either jumbo squid or market squid.

Amend Section 29.80
Re: Take of Crustaceans While Diving

Existing regulations of Section 29.80, Title 14, CCR, govern the recreational take of crustaceans while skin diving or while using SCUBA gear. Subsection (a) provides a general allowance that crustaceans may be taken by hand, while subsection (g) states that "skin and SCUBA divers may take crustaceans by the use of the hands except divers may not possess any hooked device while diving or attempting to dive." The Department proposes to clarify this language to reduce confusion and improve enforcement of the regulations in this Section.

The intent of the prohibition on hooking devices is to ensure that divers do not use gaffs to reach into crevices in order to remove lobsters or crabs in areas out of reach. However, while divers may not possess hooked devices, the regulation fails to clearly state that skin and SCUBA divers may take crustaceans only by hand. The use of objects such as sticks, spears, or mops is known to improve efficiency and productivity for crustaceans while diving, thereby increasing catch rates.

The Department proposes that the Commission amend subsection (g) of Section 29.80, to make clear that skin and SCUBA divers may take crustaceans by hand only. The change will improve the ability to enforce the requirement that divers take crustaceans by hand, and will also improve clarity and reduce confusion for the public.



NOTICE IS GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held at the Hubbs-Sea World Research Institute, Shedd Auditorium, 2595 ngraham Street, San Diego, California, on Friday, October 6, 2006 at 8:30 a.m., or as soon thereafter as the matter may be heard.

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 at the City Council Chambers, 777 Cypress Avenue, Redding, California, on November 3, 2006, at 8:30 a.m., or as soon thereafter as the matter may be heard. It is requested, but not required, that written comments may be submitted on or before Friday, October 27, 2006 at the address given below, or by fax at (916) 653-5040, or by e-mail to FGC@dfg.ca.gov, but must be received no later than Friday, November 3, 2006 at the hearing in Redding. All correspondence, including E-mail, must include the true name and mailing address of the commenter.

NOTICE IS FURTHER GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held at the Santa Monica Library, Martin Luther King Jr. Auditorium, 601 Santa Monica Blvd., Santa Monica, CA, on December 8, 2006, at 8:30 a.m., to consider adoption of the proposed Sport Fishing Regulations for the 2007 through 2009 seasons. Additional testimony on the proposed regulations may be received if substantive changes result from the November 3, 2006, meeting or if regulatory alternatives are under consideration.

Draft environmental documents associated with the proposed regulatory actions are made available for comment commencing September 13, 2006. Oral or written comments relevant to these documents will be received at the October 6, 2006, meeting in San Diego. Written comments on these documents may be submitted to the Commission office (address given herein) until 5:00 p.m., November 7, 2006. Draft environmental documents are available for review at the Commission office and at the Department of Fish and Game's headquarters office (same address as Commission). Copies of the documents are also available for review at the Department offices in Redding, Rancho Cordova, Yountville, Fresno, Bishop, Eureka, Menlo Park, Monterey, Ontario and San Diego. **NO WRITTEN COMMENTS ON THE DRAFT ENVIRONMENTAL DOCUMENTS WILL BE ACCEPTED AFTER 5:00 P.M. ON NOVEMBER 7, 2006.**

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, John Carlson, Jr., 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 John Carlson, Jr., or Jon D. Snellstrom at the preceding address or phone number. **Scott Barrow, Department of Fish and Game, phone (916) 651-7670, has 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 the 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:

Sections 1.62, 5.80, 27.60, 27.90, 27.95, 195, and 701; Add Sections 5.81 and 27.91
Re: Sturgeon Sport Fishery Regulations

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 amendments and additions will promote a more stable and productive fishery, with direct benefits to anglers, guides, and bait shops.

Section 1.63
Re: Movement of Live Fish

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.

Section 1.67
Re: Native Reptiles and Amphibians

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. A fundamental concept of state regulations concerning native wildlife is that commercialization is not the norm. This amendment closes loopholes centering on activity that commercializes species and subspecies indigenous to California. However, based on traditional California law the commercialization of native reptiles and amphibians is extremely limited and is a very minor part of the California economy. Additionally, present permit processes would let authorized commercial activity to take place within California.

Section 2.00
Re: Fishing Methods - General

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 change clarifies existing regulations.

Sections 5.00 and Subsections 7.50(b)(68.3) and Repeal Subsection 7.50(b)(73.5)
Re: Black Bass Seasons in Inyo, Shasta, Modoc, and Mono Counties and Repeal of Haiwee Reservoir Special Fishing Regulations

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. These regulation changes simply clarify existing language and remove any angler perceived loopholes. No economic impacts are anticipated.

Subsections 7.00(c)(3) and (f)(5)
Re: North Central Coast and Southern Districts General Regulations

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 regulations clarifies existing regulations and increase protection for federally-endangered Southern steelhead and their progeny.

Section 27.65**Re: Rockfish Fillet Provisions**

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.

No significant adverse impacts. Eliminating the requirement that “brown skinned” rockfish fillets be 6.5 inches in length will aid enforcement, public understanding and reduce confusion. The change is minor and technical in nature.

Section 28.20**Re: Pacific Halibut Season and Size Limit**

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. If there is any economic impact that might result from the proposed change, it would be positive in nature.

Amend Section 29.70**Re: Recreational Limit on Jumbo and Market Squid**

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 change makes only a non-substantive, technical change to the regulations, to aid public understanding and reduce confusion.

Amend Section 29.80**Re: Take of Crustaceans While Diving**

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. Modifying the language to clarify that while diving with SCUBA gear, take of crustaceans is authorized “by hand only” makes only a non-substantive, technical change to the regulations, to aid enforcement, public understanding and reduce confusion.

- (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:

Sections 1.62, 5.80, 27.60, 27.90, 27.95, 195, and 701 Add Sections 5.81 and 27.91**Re: Sturgeon Sport Fishery Regulations**

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, other than the \$0-\$7.50 fee for the Sturgeon Fishing Report Card.

Section 1.63 Re: Movement of Live Fish; Section 1.67 Re: Native Reptiles and Amphibians; Section 2.00 Re: Fishing Methods – General; Sections 5.00, Subsections 7.50(b)(68.3), Repeal Subsection 7.50(b)(73.5), Re: Black Bass Seasons in Inyo, Shasta, Modoc, and Mono Counties and Repeal of Haiwee Reservoir Special Fishing Regulations; Subsections 7.00(c)(3) and (f)(5) Re: North Central Coast and Southern Districts General Regulations; Section 27.65 Re: Rockfish Fillet Provisions; Section 28.20 Re: Pacific Halibut Season and Size Limit; Section 29.70 Re: Recreational Limit on Jumbo and Market Squid; Section 29.80 Re: Take of Crustaceans While Diving

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

John Carlson, Jr.
Executive Director

Dated: August 22, 2006