



Public comments received on this proposal and the Department's responses are listed in the attached Public Comments on Proposed Regulatory Changes and Department Responses document.

VIII. 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

IX. Location of Department files:

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

X. Description of Reasonable Alternatives to Regulatory Action:

(a) Alternatives to Regulation Change:

No alternatives were identified.

(b) No Change Alternative:

The no change alternative would leave existing regulations in place with inconsistent regulations and ongoing enforcement issues.

(c) Consideration of Alternatives:

In view of the 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 affected private persons than the proposed regulation.

XI. Impact of Regulatory Action:

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following determinations relative to the required statutory categories have been made:

(a) Significant Statewide Adverse Economic Impact Directly Affecting Businesses, Including the Ability of California Businesses to Compete with

Businesses in Other States:

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The proposed changes are necessary for the continued preservation of the resource and therefore the prevention of adverse economic impacts.

- (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) 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 is a combination of Department and public requests for Title 14, California Code of Regulations (CCR) revisions to sport fishing bag limits for the 2009 triennial sport fishing review cycle. This proposal modifies bag limit regulations for black bass in Lake Perris, crappie, sunfish, lamprey, Sacramento splittail, Alameda Creek and tributaries, Nacimiento River, Putah Creek, and Lake Sonoma and tributaries.

For public notice purposes to facilitate Commission discussion, the Department is proposing the following changes to current regulations as discussed in the following paragraphs:

### **LAKE PERRIS BLACK BASS REGULATIONS**

In October 2005, the Department of Water Resources, Division of Dam Safety, determined the dam at Lake Perris was unsafe due to concerns about stability during an earthquake. An emergency lowering of the lake surface elevation by 25 feet was necessary to meet safety standards. This lowering reduced the water surface area by 20% and the lake volume by 43%. Population estimates for 12 inch and larger largemouth bass conducted pre and post drawdown, have shown a 60 to 67 percent decline in bass numbers. This population decline is due to reduced water volume, lack of suitable habitats, concentration of fish, lack of recruitment and predation. Angling pressure for bass has decreased during this period due to fewer boats allowed to launch and a 75% reduction in the number of team tournaments held.

Recent general fish surveys have confirmed that since the drawdown all year classes of bass are very weak and may not sustain the fishery with normal fishing pressure and harvest. Lake Perris was known as a trophy bass fishery, but under the current recruitment conditions, production of larger fish is in doubt.

Unlike most of the water bodies in southern California, significant portions of bass caught from shore were kept as food. Raising the minimum legal size reduces this impact by restricting anglers to harvesting only larger bass, which are not as common in the areas accessible to shore anglers. The Department has established a successful put-and-take trout fishery and this will help mitigate the impacts to shore anglers wanting fish for consumption. The trout fishery could be experiencing increased utilization, as fish confined to the smaller body of water are more available to the anglers.

Upon completion of the dam repair project and water levels returning to full pool, we estimate the bass fishery will take 5 to 10 years to return to pre-drawdown numbers. The Department is implementing habitat improvement projects within Lake Perris which should help maintain the existing fishery and expedite recovery with restoration of the water level. Upon re-establishment of the fishery, the regulations will return to the statewide standards for size and bag limits.

The largemouth bass population in Lake Perris has continued to decline since the 2005 drawdown, it is extremely important that approval of this regulation change occur during this cycle.

Amend Section 5.00, Black Bass Regulations.

- Add Perris Lake regulations to establish a bag limit of 2 fish with a minimum size of 15 inches.
- Additional minor changes are proposed for clarity and to reduce public confusion.

**CRAPPIE, SUNFISH AND TILAPIA**

Presently crappie has a 25 fish bag limit where as sunfish and tilapia have no limit. The Law Enforcement Division has seen an increase in the illegal commercialization of sunfish in recent years. With no bag limit on sunfish, there is no way to regulate the amount of fish that can be taken, therefore increasing the ease of supply for a commercial demand. Sunfish are also commonly used for bait on illegal long lines in inland waters.

The Department's Law Enforcement Division is proposing to establish a statewide combined bag limit of 25 sunfish and crappie to combat illegal commercialization of sunfish and crappie and improve compliance with existing regulations.

Amend Section 5.30, Crappie Regulations.

- Move crappie regulations to Section 5.82 to establish a statewide combined bag limit with sunfish.
- Add cross reference to section 5.82 for clarity.

Amend Section 5.82, Sunfish and Tilapia Regulations.

- Move tilapia regulations to Section 5.83.
- Establish combined bag limit of 25 sunfish and crappie except in Barrett and Upper Otay Lakes where there is a zero bag limit.
- Add crappie size limit of 10 inches for Hodges and El Capitan Lakes.

Add Section 5.83, Tilapia Regulations.

- Add tilapia open seasons of all year except for district and special regulations closures.

**LAMPREY REGULATIONS**

The Department proposes to establish a bag limit of 5 for Pacific Lamprey within state waters. Pacific Lamprey stocks are depressed throughout much of its west coast range. The Pacific Lamprey Conservation Initiative is an effort presently led by the U.S. Fish and Wildlife Service (FWS) to facilitate communication and coordination relative to the conservation of Pacific lampreys throughout their range. The goal of the initiative is to

develop a Pacific Lamprey Conservation Plan that will lead to restored Pacific lamprey populations and improvement of their habitat.

This initiative is addressing the consideration of Pacific Lamprey when implementing instream activities, mercury contamination and bioaccumulation, spawning characteristics, biological and ecological needs, and threats. Department staff are part of this conservation initiative. The Department proposed to establish California bag limits similar to others west coast states as a reasonable management measure.

Amend Section 5.40, Lamprey Regulations.

- Reduce bag limit to 5 lamprey.
- Remove traps from approved methods of take.
- Additional minor changes are proposed for clarity and to reduce public confusion.

**SPLITTAIL REGULATIONS**

Sacramento splittail is a native minnow once listed as a Threatened Species under Federal Endangered Species Act. The original listing was due to extensive habitat loss and fluctuations in abundance. Though the species is no longer listed, the decision was controversial and under regional examination.

Splittail are the object of a sport fishery primarily focused on the spawning grounds during spawning season. The species is also used as bait. Existing sport fishing regulations have no limits for splittail. This proposal will add protections for splittail that are consistent with new concerns about the species.

Add Section 5.70, Sacramento Splittail Regulations .

- Add bag limit of 2 fish.
- Restrict methods of take to angling only.

**ALAMEDA CREEK SPECIAL REGULATIONS**

There are substantive efforts underway to provide fish passage over the 100 % migration barriers in the Alameda Creek flood control channel. While working to provide passage for anadromy, members of the Alameda Creek Work Group are, in the meantime, annually relocating anadromous steelhead from below the lower-most barrier in Alameda Creek to locations upstream of this barrier.

As part of early planning efforts to jumpstart the anadromous steelhead run, the Department is currently considering utilizing the land-locked steelhead populations located upstream of San Antonio and Calaveras Reservoirs as a genetic source of steelhead to jumpstart the anadromous run. Genetic tests indicate that these land-locked populations have the genetics of Central California Coast Distinct Population Segment steelhead. Additionally, trapping efforts have indicated that these populations exhibit the behavioral and morphological characteristics of anadromous steelhead in their migration to and from the Calaveras and San Antonio reservoirs.

This proposal will provide protection for the anadromous steelhead that are annually relocated upstream of the barriers in the flood control, as well as increase protection for the possible genetic source of future steelhead enhancements.

Amend subsection 7.50(b)(1.5), Alameda Creek and Tributaries Special Regulations.

- Add year round closure for all species for areas downstream of San Antonio, Calaveras and Del Valle reservoirs.

#### MOKELUMNE RIVER SPECIAL REGULATIONS

This public recommendation proposes to move the upper boundary of subsection 7.50(b)(124)(A) to open up additional fishing opportunities year round. This proposal is supported by the East Bay Municipal Utilities District (EBMUD) and the Department.

Recent EBMUD fish studies indicate the primary juvenile steelhead habitat occurs upstream of Highway 99. Prior to the reconstruction and reconfiguration of the Woodbridge Irrigation District Dam on the lower Mokelumne River in 2006, striped bass were precluded from the 20-mile stretch of the river that provides rearing habitat for juvenile steelhead and trout. In April and May 2006, striped bass were observed upstream of Woodbridge Irrigation District Dam. Examination of these fish indicated that they were feeding on juvenile Chinook salmon and steelhead. Studies conducted in the lower Mokelumne River by EBMUD suggest that during the April through June period, each average adult striped bass can consume 2-3 juvenile salmonids per day. To this date, it is unknown if striped bass are upstream of the Woodbridge Irrigation District Dam. However, other Centrarchids are present in this lower stretch of the Mokelumne River including Lodi Lake. Furthermore, Woodbridge Irrigation District is proposing to keep Lake Lodi full throughout the year instead of draining it during the fall months, which has the potential to harbor more Centrarchids.

Amend subsection 7.50(b)(124), Mokelumne River Special Regulations.

– Move the upper boundary of subsection (A) up to Highway 99 Bridge from Peltier Road which will also open up Lodi Lake year round.

#### NACIMIENTO RIVER SPECIAL REGULATIONS

Through 2008, the Department stocked the main stem of the Nacimiento River downstream of Nacimiento Dam with hatchery trout to support a fishing program at Camp Roberts. National Marine Fisheries Services (NMFS) has expressed concern in the past that hatchery trout were being stocked in a steelhead stream.

The Department and NMFS agreed that data would be collected to determine whether steelhead were being impacted by the fishing program. Otoliths were collected between 2002 and 2005. Otolith analysis by NMFS has shown that progeny of anadromous females have been taken during fishing activities in the river. The Department agreed that the stocking program would discontinue if there was evidence that steelhead were

present in the mainstem of Nacimiento River downstream of the dam. The current fishing regulations were set to accommodate anglers being able to keep stocked fish.

Presently with the hatchery trout stocking being stopped, the current regulation needs to be changed to allow catch and release fishing using barbless lures. This change is consistent with fishing regulations for other steelhead streams in the South Central District and is more protective for listed steelhead.

Amend subsection 7.50(b)(129), Nacimiento River Special Regulations.

- Establish zero bag limit for main stem below Nacimiento Dam to the confluence with the Salinas River.
- Correct abbreviation for county to align the regulatory language of this subsection with the other special regulations.

**PUTAH CREEK SPECIAL REGULATIONS**

A high use rainbow trout fishery exists in Putah Creek (Solano and Yolo counties) from Solano Lake to Monticello Dam partially through out-planting of the Department's hatchery produced rainbow trout. However, it is believed that this reach of stream also supports a native wild trout fishery and that this reach of Putah Creek is considered candidate wild trout water. The Department will have a better understanding of the most appropriate management/regulations needed for that fishery following several years of monitoring.

The recent lawsuit brought against the Department on its hatchery out-planting practices resulted in a review of the affects of out-planting trout in this stream reach by the local Department biologist. It was determined that this practice may result in concerns for negative interactions with various listed species.

The out-planting of Department hatchery produced rainbow trout has been discontinued as a result until further studies can be conducted to determine this potential impact. In the absence of hatchery planted trout, angler harvest based on "put and take" management strategies could potentially impact wild populations.

Without the support of hatchery out-planting, there are concerns by the Putah Creek Trout local angling group that a 5 fish general trout limit would deplete this fishery over time in the 10.5 km reach of Putah Creek and Lake Solano.

The original joint proposal included expanding the gear restriction of only artificial lures and barbless hooks for all year and was left out of the Initial Statement of Reasons due to an editing error.

Amend subsection 7.50(b)(147), Putah Creek Special Regulations.

- Establish zero bag limit for Putah Creek from Solano Lake to Monticello Dam.
- Expand the gear restriction of only artificial lures and barbless hooks to all year.



- Correct abbreviation for county to align the regulatory language of this subsection with the other special regulations.

#### SONOMA LAKE SPECIAL REGULATIONS

Dry Creek, tributary to the Russian River in Sonoma County was dammed in 1983 by the US Corps of Engineers, forming what is now Lake Sonoma. The Lake now harbors a small population of large native rainbow trout (formerly sea-run steelhead) which inhabit the cooler deep waters of the lake and are targeted by fisherman during the spring, summer and fall. No stocking of hatchery rainbow trout has occurred although, largemouth bass and catfish have been stocked in the reservoir, so the lake receives year-round fishing interest and moderate fishing pressure.

The local fisherman have raised concerns for the status of the trout population over the last 3 years due to the recent drought conditions, increased fishing pressure and the applicability of a statewide regulation of 5 trout per day on a landlocked population that is not supplemented by hatchery fish. Because of the popular status of the fishery, the integrity of the population, and the interest by fisherman, the lake is currently under assessment and evaluation by the Department for proposed designation as a Wild Trout Water, thus angler surveys have been conducted over the past 18 months. Reconnaissance surveys of lakes' tributary streams where adults spawn have been conducted and the depressed conditions have been verified over the last two years.

#### Add subsection 7.50 (b)(181.8), Sonoma Lake Special Regulations.

- Establish a year round two fish bag limit for Sonoma Lake.

#### Amend subsection 7.50(b)(182), Sonoma Lake Tributaries Special Regulations.

- Reduce bag limit in Sonoma Lake tributaries to two fish.

**The Fish and Game Commission adopted the proposed regulations at its December 10, 2009 meeting.**