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STATE OF CALIFORNIA

Fish and Game Commission

September 25, 2009

TO ALL INTERESTED AND AFFECTED PARTIES

This is to provide you with a copy of the continuation notices of proposed regulatory actions relative to "Sport Fishing Regulations," in the sections identified in Title 14, California Code of Regulations, which will appear in the California Regulatory Notice Register on September 25, 2009. These documents as well as supporting documents will also be made available on the Commission's website at:

<http://www.fgc.ca.gov/regulations/new/2009/proposedregs09.asp>

Please note the dates of the public hearing related to this matter and associated deadlines for receipt of written and oral comments, found on pages 18 and 19.

This notice reflects the Department of Fish and Game recommendations of proposed sport fishing regulation changes reflecting the editorial and additional changes suggested by the Fish and Game Commission, the Department of Fish and Game and members of the public. The continuation notice is added to the department recommendations published in the August 28, 2009, Register 2009, No. 35-Z; as discussed at the Commission Meeting of August 6, 2009.

Scott Barrow, Department of Fish and Game, phone (916) 445-7600, has been designated to respond to questions on the substance of the proposed regulations.

Sincerely,


Jon D. Snellstrom
Associate Government Program Analyst

Attachment

BOARD OF SUPERVISORS
2009 SEP 25 A 11:10

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

(Continuation of Register 2009, No. 35-Z, and Commission Meeting of August 6, 2006)

(NOTE: To be responsive to public input on proposed changes in the sport fishing regulations, the Commission is exercising its powers under Section 202 of the Fish and Game Code. Some 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.)

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 amend sections 1.74, 5.00, 5.30, 5.40, 5.79, 5.80, 5.81, 5.82, 5.87, 5.88, 7.50, 8.00, and 701, and to add sections 5.70, and 5.83 Title 14, California Code of Regulations (CCR), as part of the proposed Sport Fishing Regulations for years 2010 through 2012 (as explained in the following paragraph).

Proposed changes to sections as set forth in the first notice regarding Sport Fishing Regulations (Notice Register 2009, No. 35-Z, published August 28, 2009) remain the same, **except for modifications based on additional public and department recommendations proposed for Sections 5.00, 5.30, 5.40, 5.79, 5.80, 5.81, 5.82, 7.50, 27.92, 29.80 and 701; and added in Sections 5.70 and 5.83 (see Informative Digests below).**

Updated Informative Digest/Policy Statement Overviews

Amend Section 1.74, Section 5.87, ~~subsection (b)(180) of Section 7.50,~~
subsection (a) of Section 8.00, and subsections (b) ~~and (c)~~ of Section 701
Title 14, California Code of Regulations

Re: Report Card and Low-Flow Regulations

The Department of Fish and Game proposes the following regulatory changes, relating to angling on north coast streams and sport fishing report cards:

- Require a salmon report card FG 683 (Rev. 9/09) in the Smith River [1.74; 5.87; 701(b)].
- ~~Add slight modification to sturgeon report card FG 684 (Rev. 9/09) [701(c)].~~
- ~~Allow only barbless hooks in the Smith River [7.50(b)(180)].~~
- Change the annual beginning date for low-flow angling restrictions in the Mad River [8.00].
- Clarify the procedure and correct the phone number for implementing north coast low-flow angling restrictions [8.00].
- Extend the low-flow restriction reach of the Middle Fork Eel River, to be consistent with the reach open to fishing [8.00].
- Correct the low-flow restriction reach for the South Fork Smith River, to be consistent with the reaches open to fishing [8.00].

All proposed changes for the Smith River have been moved to the Statewide Steelhead Alignment Initial Statement of Reason to align Triennial rulemakings and reduce public confusion.

All proposed changes for the sturgeon report card have been moved to the Sturgeon Regulations Initial Statement of Reasons to align Triennial rulemakings and reduce public confusion.

Present Regulations

Section 1.74, Title 14, CCR, contains the general requirements, tagging procedures, and regulations for the following sport fishing cards: Klamath-Trinity Salmon Report Card, Steelhead Report and Restoration Card, Spiny Lobster Report Card, Sturgeon Fishing Report Card, and Abalone Report Card.

Section 5.87, Title 14, CCR, contains the requirements, procedures and regulations that are specific to the Klamath-Trinity Salmon Report Card.

Section 8.00(a), Title 14, CCR, contains the low flow restrictions, flow determination procedures and Department informational numbers for all inland waters.

Section 701, Title 14, CCR, lists sport fishing forms, form revision dates, associated annual fees, and other related information.

Proposed Regulations

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

Require Salmon Report Card in Smith River (Sections 1.74; 5.87; 701(b))

Existing regulations require anglers fishing for salmon in the Klamath-Trinity river system to possess and use a Klamath-Trinity Salmon Report Card. Anglers are allowed to retain Chinook salmon in the Klamath-Trinity, and the report card provides the department effort and catch data that are very valuable in managing the continued sustainability of salmon populations there. The only other north coast river where anglers may retain Chinook salmon is the Smith River. However there is no salmon report card requirement in the Smith River, so the fishery is managed without the aid of critical monitoring for effort and catch.

This proposed regulation change would expand the Klamath-Trinity Salmon Report Card requirements to the Smith River, which would provide critical data for the Smith River, enabling better informed fisheries management decisions specific to hatchery and wild Chinook salmon populations in the Smith River. Additionally, there would be a small amount of revenue directed towards data analysis, reporting, and Smith River fisheries monitoring. Also, the report card would be renamed the "North Coast Salmon Report Card" which would simplify the card name and eliminate the need to change the card name in the future if north coast streams are added or deleted.

Change Beginning Date for Mad River Low-Flow Restrictions (Section 8.00(a))

Existing regulations allow angling in the lower Mad River from the fourth Saturday in May through March 31, with low-flow restrictions in effect from October 1 through January 31. Chinook salmon generally begin to enter and hold in pools in the Mad River during late August or early September. During September, Chinook are easily detected, accessible, and subject to heavy fishing pressure and poaching due to low flow and clear water. DFG regional offices receive numerous calls regarding violators, and the trend for citations is increasing each year.

This proposed regulation change would begin low-flow restrictions in the Mad River on September 1 rather than October 1. It would reduce unlawful take and unnecessary risk to this threatened species.

Clarify Implementation and Correct Phone Number for North Coast Low-Flow Restrictions (Section 8.00(a))

Existing regulations authorize the Department to close or open north coast anadromous stream reaches to angling, based on specified minimum flows at specified gauging stations on specified flow-determination days (Monday, Wednesday, and Friday):

- When the flow is below the minimum on a flow-determination day, the reach is closed starting the day after that flow-determination day, through the next flow-determination day.
- When the flow is above the minimum on a flow-determination day, the Department may close the reach if the Department expects the flow to decrease below the minimum before the next flow-determination day.
- The Department may reopen a reach at any time if the minimum flow is exceeded, and if the Department expects it will remain exceeded until the next flow-determination day.

The wording of the existing regulations is complicated and has resulted in public confusion and numerous inquiries to the Department regarding its authority to close the fishery on the flow-determination day when the flow is above the minimum. Clarification is needed.

This proposed regulation change would add two words ("or on") to Section 8.00 (a) to clarify implementation. When the flow is above the minimum on a flow-determination day, the Department may close the reach if it expects the flow to decrease below the minimum before "or on" the next flow-determination day. This change would reduce confusion for anglers and Department staff time for public inquiries. Additionally, the north coast low-flow information telephone number at the end of Section 8.00(a) has changed because the information line was relocated from Eureka (707-442-4502) to Arcata (707-822-3164).

Extend Middle Fork Eel River Low-Flow Restrictions Reach (Section 8.00(a)(2))

Existing special stream regulations (Section 7.50(b)(63)(D)) designate a reach of the Middle Fork Eel River, from its mouth upstream to Bar Creek, as open to fishing. This reach is about 35 miles long. The open season in this reach is January through May and July 16 through September. Existing low-flow restriction regulations (Section 8.00(a)(2)) specify the low-flow restriction reach of the Middle Fork Eel as the mouth upstream to the Black Butte River. This reach is about 32 miles long, and low-flow restrictions are in effect October through January.

The result of the above is a 3 mile reach of the Middle Fork Eel (from Black Butte River upstream to Bar Creek) that, during the month of January, is open to fishing but not subject to low-flow closure. This is an inconsistency in the regulations, and it allows angling for adult salmonids in January without the protection of low-flow closure. The main adult salmonid present at this time of year is winter-run steelhead (federally listed as threatened). Additionally, some coastal Chinook, which are also federally listed as threatened, may also be present (January is late in the run).

The proposed regulation change would extend the low-flow restriction reach upstream 3 miles to the mouth of Bar Creek. This would make the low-flow regulations consistent with the special stream regulations, and provide low-flow closure protection in that 3 mile reach.

Reduce Low-Flow Restriction Reach for South Fork Smith River (Section 8.00(a)(7))

Existing special stream regulations (Section 7.50(b)(180)(C)) designate two reaches on the South Fork Smith River as open to fishing: from the mouth upstream to the County Road (George Tryon) bridge (about 1,000 feet); and from Craigs Creek to Jones Creek (about 14 miles). The reach between those two open reaches (from George Tryon Bridge upstream to Craigs Creek, about 1.9 miles), is closed to fishing.

Existing low-flow restriction regulations (Section 8.00(a)(7)) designate the low-flow restriction reach of the South Fork Smith River as the mouth upstream to Jones Creek, which includes the closed reach from George Tryon Bridge to Craigs Creek. Thus the reach subject to low-flow restriction includes a portion of stream about 1.9 miles long that is closed to fishing all year. This inconsistency is confusing and may lead some anglers to believe the closed reach from George Tryon Bridge to Craigs Creek is actually open to fishing.

This proposed regulation change would correct the inconsistency by reducing the existing low-flow restriction reach to conform with the reaches open to fishing in the special stream regulations. This proposed change would provide better public understanding and compliance with fishing regulations, reduce staff time to address public inquiries, and may spare some anglers a citation.



Amend Section 5.00, Section 5.30, Section 5.40, Section 5.82,
subsections (b)(1.5), (b)(128), (b)(124), (b)(147) and (b)(182) of Section 7.50, and
Add Section 5.70, Section 5.83 and subsection (b)(181.8) of Section 7.50
Title 14, California Code of Regulations

Re: Sport Fishing Bag Limits

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.



Informative Digest/Policy Statement Overviews

Amend Section 5.79, Section 5.80, Section 5.81,
Section 27.92, and subsections (c) of Section 701
Title 14, California Code of Regulations
Re: Sturgeon Regulations

Proposal Overview

Green sturgeon, *Acipenser medirostris*, is one of the most ancient and prized game fish of North America. The history of sturgeon fisheries throughout the world has been one of overexploitation which has resulted in severe population decline. Green sturgeon are found in rivers only from British Columbia south to the Central Valley Basin. In California, spawning populations have been lost in the last 30 years in the Eel, South Fork Trinity, and San Joaquin Rivers. It is likely that the Sacramento, Klamath, and Rogue Rivers are the only locations where green sturgeon spawn today.

On April 7, 2006, NOAA Fisheries listed the southern distinct population segment, or DPS, of North American green sturgeon as threatened under the Endangered Species Act. In the nearly three years since the ruling, many agencies have focused attention on the biological and angling aspects of the green sturgeon fishery in the Sacramento River. The upcoming NOAA Fisheries Green Sturgeon Section 4(d) ruling is expected to document the upper Sacramento River above Colusa as the main green sturgeon spawning habitat for the species for California.

Most recently, direct observation from Department enforcement personnel, Central Valley Angler Survey data, and Sturgeon Fishing Report Card data have revealed a targeted catch and release fishery on green sturgeon between Butte City and the Red Bluff Diversion Dam. Section 5.81, Title 14, California Code of Regulations (CCR), prohibits the take and possession of green sturgeon. Federal and state biological and enforcement staff feel that present regulations are inadequate to fully protect this sensitive listed species. In addition, green sturgeon are often confused with white sturgeon and are targeted heavily by fishing guides and anglers with catch and release fishing in a few deep holes in the Sacramento River from Butte City and the Red Bluff Diversion Dam.

Section 1.80, Title 14, CCR, defines take as "Hunt, pursue, catch, capture or kill fish, amphibians, reptiles, mollusks, crustaceans or invertebrates or attempting to do so." Similar to recent action on Central Valley salmon, the Department feels that strong measures are needed to reduce fishing impact on green sturgeon. It is also expected that the upcoming NOAA Fisheries Green Sturgeon Section 4(d) ruling will require reduction of green sturgeon impacts in the upper Sacramento River.

The Department is proposing to increase protection for this listed species by prohibiting all catch and release fishing for any sturgeon in upper Sacramento River. This proposal will reduce the green sturgeon encounters by 22-23% overall and the catch and release of green sturgeon on their main spawning grounds will be stopped with reduction in the statewide sturgeon fishing opportunities of less than 5%. The Department is proposing the following options to facilitate Commission discussion:

Option 1: Closure on the Sacramento River from Keswick Dam to the Highway 32 Bridge.

- 1) Year round or a range of dates to be developed from Commission discussion and public input.
- 2) Gear restrictions of no wire leaders and no lamprey or any type of shrimp as bait.

Option 2: Closure on the Sacramento River from Keswick Dam to the Highway 162 Bridge.

- 1) Year round or a range of dates to be developed from Commission discussion and public input.
- 2) Gear restrictions of no wire leaders and no lamprey or any type of shrimp as bait.

Analysis of Sturgeon Fishing Report Card Data

The 2007 report card data in Table 1 shows the reach of the Sacramento River from Red Bluff to Colusa as the area of highest green sturgeon encounters (22% of the total annual green sturgeon releases). The months of highest green sturgeon releases were December to February (25% of the area total) and September to November (57% of the area total). The corresponding white sturgeon data for the same area in Table 2 was 5% of the total annual white sturgeon catch and the months of highest white sturgeon catch were March to May (89% of the area total).

The 2008 report card data in Table 3 shows the reach of the Sacramento River from Red Bluff to Colusa as the area of highest green sturgeon encounters (23% of the total annual green sturgeon releases). The months of highest green sturgeon releases were December to February (36% of the area total) and June to August (36% of the area total). The corresponding white sturgeon data for the same area in Table 4 was 3% of the total annual white sturgeon catch and the months of highest white sturgeon catch were March to May (91% of the area total).

Location	Fish release percentage for each area					Area % of total releases
	Dec	Mar-May	Jun-Aug	Sep-Nov	Unk date	
Sacramento: Red Bluff to Colusa	25%	3%	15%	57%		22%
Sacramento: Colusa to Knights Landing	44%	33%		11%	11%	3%
Sacramento: Knights Landing to Rio Vista	13%	38%	6%	44%		5%
Sacramento: Rio Vista to Chipps Island	27%	16%	6%	45%	5%	20%
Feather River			100%	0%		1%
American River				0%		0%
Sacramento Deepwater Ship Channel		33%		67%		1%
Yolo Bypass				0%		0%
Montezuma Slough	36%	29%	7%	29%		5%
Napa River	14%	57%	14%	14%		2%
Petaluma River				100%		0%
San Joaquin: Upstream of HWY 140 bridge				0%		0%
San Joaquin: HWY 140 bridge to Stockton				0%		0%
San Joaquin: Stockton to Sherman Lake	13%	27%	15%	46%		15%
Old River						0%
San Pablo Bay	25%	60%	10%	5%		6%
Carquinez Strait	31%	31%	15%	23%		4%
Suisun Bay	13%	30%	10%	47%		10%
Grizzly Bay	14%	21%	7%	57%		5%
San Francisco Bay: North of HWY 80	50%			50%		1%
San Francisco Bay: South of HWY 80		100%				0%
Ocean: North of Golden Gate Bridge						0%
Ocean: Golden Gate Bridge to Point Sur						0%
Ocean: Point Sur to San Diego						0%
Any reservoir or lake						0%
Unknown	50%			50%		1%

Table 2. 2007 White Sturgeon Catch and Retention Data from Sturgeon Fishing Report Card (Report card was implemented in March 2007)

Location	Fish catch percentage for each area					Area % of total catch
	Dec	Mar-May	Jun-Aug	Sep-Nov	Unk date	
Sacramento: Red Bluff to Colusa	2%	89%	2%	8%		5%
Sacramento: Colusa to Knights Landing	4%	92%		4%		5%
Sacramento: Knights Landing to Rio Vista	12%	71%	3%	13%		11%
Sacramento: Rio Vista to Chipps Island	19%	22%	3%	55%	1%	14%
Feather River		100%				0%
American River						0%
Sacramento Deepwater Ship Channel	30%	24%	6%	41%		4%
Yolo Bypass						0%
Montezuma Slough	24%	43%	4%	28%	1%	9%
Napa River	15%	56%	15%	13%	2%	4%
Petaluma River		60%		40%		0%
San Joaquin: Upstream of HWY 140 bridge						1%
San Joaquin: HWY 140 bridge to Stockton						1%
San Joaquin: Stockton to Sherman Lake	26%	13%	6%	55%		3%
Old River						0%
San Pablo Bay	14%	72%	9%	5%		6%
Carquinez Strait	19%	30%	35%	16%		3%
Suisun Bay	20%	26%	10%	43%		19%
Grizzly Bay	16%	25%	5%	54%		4%
San Francisco Bay: North of HWY 80		83%	17%			0%
San Francisco Bay: South of HWY 80	36%	49%	2%	13%		4%
Ocean: North of Golden Gate Bridge						0%
Ocean: Golden Gate Bridge to Point Sur	100%					0%
Ocean: Point Sur to San Diego						0%
Any reservoir or lake						0%
Unknown	12%	49%	10%	30%		8%

Table 3. 2008 Green Sturgeon Release Data from Sturgeon Fishing Report Card

Location	Fish release percentage for each area				Area % of total releases
	Dec-Feb	Mar-May	Jun-Aug	Sep-Nov	
Sacramento: Red Bluff to Colusa	36%	11%	36%	16%	23%
Sacramento: Colusa to Knights Landing		100%			1%
Sacramento: Knights Landing to Rio Vista	50%	38%		13%	3%
Sacramento: Rio Vista to Chipps Island	37%	20%	4%	39%	19%
Feather River					0%
American River					0%
Sacramento Deepwater Ship Channel	38%	38%		25%	3%
Yolo Bypass					0%
Montezuma Slough	58%	33%	8%		5%
Napa River	50%	33%		17%	3%
Petaluma River	100%				0%
San Joaquin: Upstream of HWY 140					0%

bridge					
San Joaquin: HWY 140 bridge to Stockton					0%
San Joaquin: Stockton to Sherman Lake	33%	25%	11%	31%	15%
Old River					0%
San Pablo Bay	40%	20%	10%	30%	4%
Carquinez Strait	56%	22%	11%	11%	4%
Suisun Bay	39%	33%	14%	14%	15%
Grizzly Bay		33%		67%	1%
San Francisco Bay: North of HWY 80	50%		50%		1%
San Francisco Bay: South of HWY 80	75%	25%			2%
Ocean: North of Golden Gate Bridge					0%
Ocean: Golden Gate Bridge to Point Sur					0%
Ocean: Point Sur to San Diego					0%
Any reservoir or lake					0%
Unknown				100%	1%

Table 4. 2008 White Sturgeon Catch and Retention Data from Sturgeon Fishing Report Card

Location	Fish catch percentage for each area				Area % of total catch
	Dec-Feb	Mar-May	Jun-Aug	Sep-Nov	
Sacramento: Red Bluff to Colusa	5%	91%	4%		3%
Sacramento: Colusa to Knights Landing	29%	67%		4%	7%
Sacramento: Knights Landing to Rio Vista	34%	53%	1%	12%	16%
Sacramento: Rio Vista to Chipps Island	37%	31%	5%	27%	16%
Feather River					0%
American River					0%
Sacramento Deepwater Ship Channel	45%	31%	2%	23%	4%
Yolo Bypass					1%
Montezuma Slough	41%	40%	2%	16%	5%
Napa River	36%	47%	11%	6%	4%
Petaluma River	75%	25%			0%
San Joaquin: Upstream of HWY 140 bridge					0%
San Joaquin: HWY 140 bridge to Stockton					1%
San Joaquin: Stockton to Sherman Lake	43%	17%	4%	36%	3%
Old River					0%
San Pablo Bay	45%	47%	2%	6%	7%
Carquinez Strait	34%	39%	14%	13%	4%
Suisun Bay	32%	37%	12%	19%	15%
Grizzly Bay	44%	22%	6%	28%	3%
San Francisco Bay: North of HWY 80	60%	30%		10%	1%
San Francisco Bay: South of HWY 80	73%	11%	2%	13%	10%
Ocean: North of Golden Gate Bridge	0%	50%		50%	0%
Ocean: Golden Gate Bridge to Point Sur					0%
Ocean: Point Sur to San Diego	100%				0%
Any reservoir or lake			100%		0%
Unknown	32%	48%	4%	16%	1%

Analysis of Central Valley Angler Survey Data

From Hamilton City (Hwy 32 Bridge) to Red Bluff Diversion Dam

The 2007-2008 CV survey data indicates that 3,000 angler hours were expended in this area or 1.9% of the total CV angler effort on sturgeon fishing in the Sacramento River. The months of reported green sturgeon releases were September (15 fish), November (38 fish), and December (23 fish). The months of recorded white sturgeon catch were August (17 fish), and October (30 fish) and the months of recorded white sturgeon releases were September (15 fish), October (45 fish), November (47 fish), and December (12 fish).

The 2008-2009 CV survey data indicates that 4,000 angler hours were expended in this area or 1.3% of the total CV angler effort on sturgeon fishing in the Sacramento River. The months of recorded green sturgeon releases were July (53 fish), September (26 fish), October (16 fish), November (7 fish), and December (24 fish). No white sturgeon were reported to have been kept and 7 white sturgeon were reported as released in November.

From Colusa (River Rd. Bridge) to Hamilton City (Hwy 32 Bridge)

The 2007-2008 CV survey data indicates that 9,200 angler hours were expended in this area or 5.8% of the total CV angler effort on sturgeon fishing in the Sacramento River. No green sturgeon were reported to have been released. The months of recorded white sturgeon catch were March (31 fish), April (42 fish), and May (18 fish) and no white sturgeon were reported to have been caught or released.

The 2008-2009 CV survey data indicates that 12,200 angler hours were expended in this area or 3.8% of the total CV angler effort on sturgeon fishing in the Sacramento River. The month of recorded green sturgeon releases were April (9 fish). The months of recorded white sturgeon catch were March (49 fish), April (79 fish), and May (13 fish) and 44 white sturgeon were reported as released in April.

Present Regulations

Section 5.79, Title 14, CCR, contains the requirements, procedures and regulations that are specific to the White Sturgeon Report Card for Inland Waters.

Section 5.80, Title 14, CCR, contains the White Sturgeon daily bag and possession limits, season dates, methods of take, and other special regulations.

Section 5.81, Title 14, CCR, contains the Green Sturgeon special regulations.

Section 27.92, Title 14, CCR, contains the requirements, procedures and regulations that are specific to the White Sturgeon Report Card for Ocean Waters.

Section 701, Title 14, CCR, lists sport fishing forms, form revision dates, associated annual fees, and other related information.

Proposed Regulations

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

Amend sections 5.80 and 5.81

There are two proposed regulatory options to add the following language to subsection (h) to Section 5.80 and subsection (c) to Section 5.81

Option 1: Special Sierra and Valley District Sturgeon Closure for varied dates from January 1 to December 31. The final range of dates will be determined by the Commission.

1. It is unlawful to fish for any sturgeon on the Sacramento River from Keswick Dam to the Highway 32 Bridge.
2. It is unlawful to use wire leaders.
3. It is unlawful to use lamprey or any type of shrimp as bait.

This proposal will provide adequate protection of green sturgeon but leave an identified fishing location where green sturgeon are known to be concentrated still vulnerable to excessive catch and release fishing by fishing guides and anglers pushed off the upper river by the proposed closure.

Option 2: Special Sierra and Valley District Sturgeon Closure for varied dates from January 1 to December

31. The final range of dates will be determined by the Commission.

1. It is unlawful to fish for any sturgeon on the Sacramento River from Keswick Dam to the Highway 162 Bridge.
2. It is unlawful to use wire leaders.
3. It is unlawful to use lamprey or any type of shrimp as bait.

This proposal will provide maximum protection of green sturgeon.

For both options:

Amend Sections 5.79 and 27.92

The proposal is to add the following language as subsection (b)(6) and (c)(3) to both sections: If the sturgeon has a department reward disk attached, write the reward disk number in the space provided on the report card.

Revisions to Sturgeon Fishing Report Card

This proposed regulation change modifies the sturgeon sport card to add a check box to allow the angler to indicate if they did not fish for sturgeon during the year, add new catch areas, a field to record the number of a Department Reward Disk from tagged sturgeon. These proposed changes will assist analysis of the report card data.



Amend Section 5.88, subsection (b)(2), (b)(3), (b)(5), (b)(18), (b)(22), (b)(27), (b)(35), (b)(47), (b)(65), (b)(66), (b)(68), (b)(69), (b)(70), (b)(72), (b)(73), (b)(91.1), (b)(102), (b)(107), (b)(129), (b)(130), (b)(133), (b)(150), (b)(154), (b)(155), (b)(156), (b)(180), (b)(193), (b)(200), and (b)(212) of Section 7.50, and subsection (i) of Section 701

Title 14, California Code of Regulations

Re: Statewide Steelhead Regulation Alignment and Smith River Regulations

California's steelhead supports a popular sport fishery throughout California's coastal anadromous waters north of Santa Barbara and the Central Valley Basin. Since 1998, the majority of California steelhead has been Federally listed under the Endangered Species Act (ESA), and since 1999 only harvest of hatchery steelhead has been allowed in California, with the exception of the Smith River. The Steelhead Fishing Report-Restoration Card (SH Report Card) data show that hatchery steelhead stray into streams that do not have hatcheries and are caught by steelhead anglers in nearly every anadromous stream in California, with the exception of the Noyo River, where zero hatchery steelhead have been reported caught since 1999).

The Department believes harvesting surplus and stray hatchery steelhead will protect and increase wild steelhead resources. Contrary to management strategies from the last several decades, research and ensuing literature demonstrate that a key to protecting reproductive fitness of wild salmonids is to decrease/remove introgression by decreasing the number of hatchery salmonids spawning with wild salmonids. Although total prevention of introgression between surplus and stray hatchery steelhead and wild steelhead is unrealistic, proper angling regulations and angler education will be a vital factor in attaining resilient and sustainable wild steelhead populations.

With the exception of Iron Gate Hatchery on the Klamath River and the Mokelumne River Hatchery, California hatcheries meet their annual steelhead production goals and "surplus" hatchery steelhead

remain in the river. This "surplus" has been "substantial", which is good for the anglers; however, unharvested hatchery steelhead that compete with and spawn with wild steelhead likely harm success of wild steelhead stocks by reducing reproductive fitness of successive generations. Increasing allowable harvest of surplus hatchery steelhead will increase angler opportunity, harvest, and continued fishing, and will greatly benefit wild steelhead populations.

If the regulations proposed here are implemented, the Department believes the fundamental character of California's steelhead fishing will be improved, while important fishery management and wild steelhead population management will be positively effected. In addition, the proposed regulations are intended to simplify statewide steelhead regulations, and simplify and provide for effective enforcement.

Proposal Overview

The Department is proposing steelhead angling regulations changes with the objective of meeting the following goals: 1) allow and encourage anglers to harvest "surplus" hatchery steelhead (adults in excess of number necessary to meet a hatchery's production goals) that are allowed to spawn in the wild on streams with hatcheries, 2) allow and encourage anglers to harvest all hatchery steelhead that stray into streams without hatchery production, and 3) allow anglers to possess several daily bag limits of hatchery steelhead, which will encourage multi-day angling trips.

Present fishing regulations allow harvest of at least 1-2 hatchery steelhead daily. For public discussion, the Department's proposal is a range of state-wide daily bag limit of hatchery steelhead from 1 to 3 fish and a range of hatchery steelhead in possession from 1-9 fish along a range of zero to one wild steelhead per year for the Smith River. The hatchery steelhead daily bag and possession limits are discussed as three options of 2 daily bag with 4 in possession, 3 daily bag with 6 in possession and 3 daily bag with 9 in possession in the following analysis.

The daily bag limit of up to 3 hatchery steelhead was developed from the SH Report Card data that shows the majority of steelhead anglers continue catch and release fishing rather than harvest their daily bag of one fish on most rivers. The daily bag limit of up to 3 hatchery steelhead will allow anglers to harvest hatchery steelhead and still continue fishing. Also a possession limit up to 9 hatchery steelhead (3X the daily bag limit) is proposed to encourage additional harvest of hatchery steelhead on multi-day (i.e., 3-day weekends) trips, boost trip and angling value and opportunity to the angler, provide additional economic benefit, and allow additional harvest of hatchery steelhead.

Additional changes for the Smith River from the public recommendations have been included in this proposal. Elimination of the use of barbed hooks from the Smith River and an annual limit of no more than five wild Chinook salmon is proposed.

The SH Report is also proposed to have a new field to collect hours fished to track angler effort data. This proposed change will assist analysis of report card data.

Analysis of SH Report Card Data

Anglers are currently allowed to harvest 1 hatchery steelhead per day in the many of California streams. However, if the angler harvests the 1 hatchery steelhead they must stop fishing. Surveys of steelhead anglers have indicated that generally if they must choose between fishing for the day or harvesting a steelhead, the "angler tendency" is to continue fishing rather than fill their limit. The SH Report Card data show that in the Mad and Russian (and in now in the Trinity) rivers, where harvest of 2 hatchery steelhead daily is allowed, anglers that can catch 2 or more hatchery steelhead generally keep zero or 1 hatchery steelhead and continue to catch and release. This results in the majority of hatchery steelhead caught by anglers annually are being released, which allows the hatchery steelhead to spawn naturally with wild steelhead.

With the exception of the Trinity River, steelhead possession limit currently equals daily bag limit. Non-local anglers in particular that do not return home at the end of their day, are essentially required to release all steelhead until the last day and last fish of their trip. For example, if an angler travels from out of state, or from Sacramento to fish the Smith River for a weekend, the angler is allowed to harvest one

steelhead (possibly wild after numerous hatchery steelhead caught previously), but must cease fishing upon retention of that fish. With this, many anglers end up keeping none, as they released fish to keep fishing and were not fortunate enough to catch a steelhead near the end of their last day of fishing. Management-wise this is detrimental as it requires the angler to release all hatchery steelhead that will likely spawn with the wild steelhead; whereas the local angler can harvest one, return home to eat the catch and return the next day to harvest again. Still many hatchery steelhead may be released, but The Department expects potentially less with additional education.

Economically and value-wise, this is also a disadvantage to the non-local angler. The non-local angler is likely expending far more to benefit the local economy, yet is not able to harvest as many hatchery steelhead as the local angler. Increasing the possession limit increases the potential value to the non-local angler in particular, and possibly an economic boost to local communities. Also wild steelhead populations are benefited by having additional hatchery steelhead removed from potentially spawning in the wild.

This regulation change would also allow the angler to fish several streams on a multi-day trip, and benefit several local communities. Taking the example above, say for a three-day weekend, the angler could fish the Smith River and harvest up to a daily bag limit, fish the Mad River the following day and harvest up to a daily bag limit, and fish the upper Sacramento or Feather River on the way home. Currently, if the angler harvests 1 steelhead on the Smith River, the angler would be done fishing for the weekend until they return home. Even though the daily bag and possession on the Mad River is currently 2 hatchery steelhead, and the Trinity River currently allows 2 hatchery steelhead daily and 4 in possession, this non-local angler could not stop to fish these streams because the possession limit was filled on the Smith River. However, the angler from Eureka could take a limit on the Smith on day one and return home, take 2 hatchery steelhead from the Mad on day two and return home, and fish the Trinity on day three and harvest 2 more hatchery steelhead and return home.

Enforcement-wise, a standard daily bag and possession is intended to simplify things for the angler and for wardens.

Since 2003 anglers have been required by law to return their SH Report Card to the Department. Though ideally there would be 100% compliance with the law by steelhead anglers, returns have continually been increasing annually; thus, confidence in these data for individual streams continues to increase. Although there is not 100% return, these data annually are considered a representative cross-section of all SH Report Card purchasers, as a matrix of anglers ranging from "Did not fish for steelhead" to anglers completely filling their SH Report Card, from "caught none" to catching several hundred steelhead per SH Report Card are returned. Data from the SH Report Cards corroborate the conjecture that 10%-20% or the anglers catch 80%-90% of the fish. A prominent number of anglers catch one (1) or even two (2) steelhead per trip, but few catch more than 2 per trip.

Proposed Options

Data from the SH Report Card from 2005, 2006 and 2007 were sorted by date and angler, and analyzed to predict potential harvest of hatchery steelhead per angler per stream under each alternative. The results were based on "full potential", where maximum daily harvest and possession were allotted, and if an angler skipped a day it was presumed they had returned home and their possession limit was "reset".

The analyses also assumed that the alternative considered was applicable even to streams where harvest of hatchery steelhead is not allowed. For discussion and presentation purposes, the results of these extensive analyses were averaged and summarized for the majority of California streams where harvest of hatchery steelhead is currently allowed.

Option 1

2 hatchery steelhead daily bag and 4 hatchery steelhead in possession

The analyses results of this option indicate that the Department's goal of harvesting the predominance of surplus and stray hatchery steelhead would seldom be met, though several streams were predicted to

achieve a "high" ($\geq 90\%$) harvest level (i.e., Smith River, waters from Klamath River south to the Mad River, and the Navarro River). From Figure 1, it is evident that if indeed "angler tendency" corresponds with the predictive analyses, there would be a marked decrease in the percentage of hatchery steelhead released by anglers.

Fortuitously, in response to a phenomenal return of hatchery steelhead to the Trinity River in 2007 (est. 46,000), the Department changed the Trinity River steelhead regulations from 1 hatchery steelhead daily bag/1 in possession to 2 hatchery steelhead daily bag/4 in possession for 2008. The Department analyzed the 2008 SH Report Card data returned to-date for the Trinity River to evaluate "reality" (angler tendency) verses predicted potential.

The potential harvest of hatchery steelhead in the Trinity River under this alternative is 53% (Table 1), thus 47% were predicted to be released. As suspected, based on the supposition that anglers rather harvest less than the daily bag limit to continue fishing for the day, actual harvest of hatchery steelhead on the Trinity River was 15% in 2008, thus 85% of the hatchery steelhead caught by anglers were released. Less than 1% of 2008 Trinity River anglers (8 of 1,826) filled their possession limit of 4 hatchery steelhead.

Option 2

3 steelhead daily bag and 6 steelhead in possession

The analyses results of this option indicate that the Department's goal of harvesting the majority of surplus and stray hatchery steelhead intuitively would be potentially met more often than the 2 daily/4 possession option, and potentially more effectively harvest surplus hatchery steelhead on hatchery supported streams. On the Mad River under current regulations of 2 daily/2 in possession, an average of 306 hatchery steelhead were reported as harvested (52% of the catch). The 2/4 alternative would have potentially equated to a harvest of 439 hatchery steelhead, and the 3 daily/6 in possession would have potentially equated to a harvest of 497 hatchery steelhead (84% of the catch).

Similarly, on the Russian River under current regulations of 2 daily/2 in possession, an average of 657 hatchery steelhead were reported as harvested (56%). The 2/4 alternative would have potentially equated to a harvest of 963 hatchery steelhead, and the 3 daily/6 in possession would have potentially equated to a harvest of 1,048 hatchery steelhead (89%).

A marked difference could be realized in the American River, where current regulations allow harvest of 1 hatchery steelhead daily with 1 in possession, an average of 298 hatchery steelhead were reported as harvested (21%). The 2/4 alternative would have potentially equated to a harvest of 1,115 hatchery steelhead, and the 3 daily/6 in possession would have potentially equated to a harvest of 1,261 hatchery steelhead (88%).

However, based on the knowledge that anglers rather harvest less than the daily bag limit to continue fishing for the day, actual harvest of hatchery steelhead will likely be lower than the potential. Though this alternative is good, the Department's goal of harvesting a high proportion of surplus and stray hatchery steelhead would not be satisfactorily accomplished.

Option 3

3 steelhead daily bag and 9 steelhead in possession

Analyses results, though distant from the ultimate goal of harvesting 100% of the surplus and stray hatchery steelhead in California, is currently the best alternative for improving steelhead fishing opportunities, protecting wild steelhead resources, and being sensitive to public reaction to this management paradigm-shift.

Even at this level of allowable daily harvest, additional removal of hatchery steelhead is generally a small percentage increase in most streams. This is primarily a result of a limited number (10%-20%) of anglers fishing for steelhead on multiple days and catching 9 or more hatchery steelhead in three or more consecutive days; however, the Department believes providing opportunity for harvest of additional hatchery is prudent.

For example, the Yuba River is managed for "wild trout", yet 13% of the annual catch for 2003 to 2007 was hatchery steelhead, presumably strays from the Feather River Hatchery. Under the current regulations 91% were released on average (in reported numbers, that was 83 of 91 hatchery steelhead). Under Option 3, 84% of the 109 hatchery steelhead could have been harvested and removed from potentially spawning with the wild steelhead.

For the Smith River drainage, potentially an average of 96% of the hatchery steelhead straying upstream from Rowdy Creek could have been harvested, and possibly 86% of the hatchery steelhead in the Mad River could have been harvested. For the Trinity River, potentially 68% of the catch would have been harvested, thus 32% released; however, considering current "angler tendency", it is estimated that 58% of the hatchery steelhead would be released in the Trinity River to spawn in the wild under Option 3.

Proposed Additional Smith River changes

Smith River Wild Steelhead

Regarding reduced or no harvest of wild steelhead on the Smith River, SH Report Card data show that from 2003 to 2007 nearly as many wild steelhead were retained as hatchery steelhead (from Rowdy Creek Fish Hatchery) were released for the Smith River watershed. This is particularly prevalent in the mainstem and the Middle Fork Smith River.

From 2003 to 2007 SH Report Cards returned to the Department, a total of 2,914 wild steelhead were harvested, while 2,192 hatchery steelhead were released throughout the Smith River watershed. Though approximately 73% of the steelhead catch in the Smith River are wild and 75% of the wild steelhead are released, 51% of the hatchery steelhead caught in the Smith River are currently being released (Table 1).

As mentioned above under Option 3 (3 daily/9 in possession), potentially 96% of the hatchery steelhead straying upstream from Rowdy Creek could have been harvested; however, even with Option 3 as much as 33% of the hatchery steelhead caught in the SF Smith River in 2005 would have been released to spawn in the wild.

The Department does not believe harvesting wild steelhead, and releasing hatchery steelhead accomplishes protection and sustainability of wild steelhead resources. The Department proposal is a range of zero to 1 wild steelhead per year on the Smith River to increase protection of wild steelhead.

Allow only Barbless Hooks in Smith River

Existing regulations for the Smith River allow barbed hooks during September through March in the Middle, North, and South Forks, and during September through April in the main stem.

In 1998, the Department, NOAA Fisheries, the Fish and Game Commission (Commission) banned barbed hooks for angling on all north coast anadromous waters. In 2004, the Commission changed Smith River regulations to the present language allowing barbed hooks. The change potentially increased salmon and steelhead hooking mortality and incidental take of threatened coho salmon. Additionally, the regulation change created inconsistent regulations for terminal gear in north coast anadromous waters.

In 2007, Fish and Game Code, Section 7149.45(a) was revised to expand the areas where anglers may use a second rod in California beginning in 2008. Anglers who have a second rod stamp may now fish with two rods in any inland water, except where only artificial lures or barbless hooks are allowed. A result is that anglers may now use two rods in the Smith River when and where barbed hooks are allowed. Anglers using two rods and terminal gear with baited barbed hooks potentially catch more fish and increase hooking mortality.

This proposed regulation change would reenact the barbless hook requirement in the Smith River and would again standardize barbless terminal gear for north coast district anadromous waters. Use of second rods in the Smith River would not be allowed, thus reducing population risk potential for threatened anadromous salmonid species.

Create Annual Limit for Wild Smith River Chinook Salmon

Existing special regulations for the Smith River allow a bag and possession limit of 1 Chinook salmon, which may be a wild or hatchery fish. Hatchery fish are identifiable by fin markings. There is presently no limit on the numbers of wild or hatchery Chinook that may be kept per year. Additionally, the daily bag and possession limit regulations refer to Chinook salmon as "king" salmon, which is not the most widely used common name for the species; also those regulations do not state that the fish may be hatchery or wild.

Currently there is no comprehensive monitoring program in place on the Smith River to determine the relative strength of wild Chinook salmon populations. Adult Chinook salmon escapements to the Rowdy Creek hatchery, though not population estimates, have declined in recent years.

Typically wild salmonid populations mimic hatchery trends on those watersheds where hatcheries exist. One of the primary management goals for the Department should be to keep Smith River Chinook from being listed. In this case management actions such as more conservative fishing regulations are prudent. Coho salmon are presently the only anadromous salmonid species in the Smith River listed under State and Federal endangered species acts.

For the last three years 100% of the Chinook salmon produced at the Rowdy Creek Hatchery have been marked with an adipose fin clip and a Coded Wire Tag. Therefore the majority of hatchery origin adult Chinook salmon returning to the Smith River this year will bear identifying marks. The Department proposes an annual retention limit of 5 wild Smith River Chinook salmon in an effort to conserve wild stocks. This management action will allow limited harvest on wild stocks while still providing angling opportunity on hatchery stocks. Institution of the Salmon Harvest Card will allow for tracking and evaluation of the annual wild fish retention limit.

Additionally, "Chinook" salmon is the name most commonly used for the species throughout the fishing regulations, and along the west coast in general. Also, if there is to be a distinction between wild and hatchery fish for the annual retention limit, some confusion may arise on whether the daily bag and possession limit applies only to wild fish or both hatchery and wild fish.

This proposed regulation change would limit the number of wild Chinook salmon that may be retained from the Smith River to a maximum of 5 fish per year. Additionally, the wording on the existing daily bag and possession limit would be changed from "king" salmon to "Chinook" salmon, and also indicate that the fish may be of hatchery or wild origin.



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 Yolo Fliers Club, 17980 County Road 94B, Woodland, California, on Thursday, October 1, 2009 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 Yolo Fliers Club, 17980 County Road 94B, Woodland, California, on Thursday, November 5, 2009, at 8:30 a.m., or as soon thereafter as the matter may be heard. It is requested, but not required, that written comments to be considered by the November 5, 2009 Commission meeting be submitted on or before Friday, October 30, 2009 at the address given below, or by fax at (916) 653-5040, or by e-mail to FGC@fgc.ca.gov, but all comments must be received no later than 5 p.m., Monday, November 9, 2009.

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 State of California, Department of General Services Auditorium, Ziggurat Building, 707 Third Street, First Floor, West Sacramento, California, on December 10, 2009, at 8:30 a.m., to consider adoption of the proposed Sport Fishing Regulations for the 2010 through 2012 seasons. Additional testimony on the proposed regulations may be received if substantive

changes result from the November 5, 2009, meeting or if regulatory alternatives are under consideration.

Draft environmental documents associated with the proposed regulatory actions are made available for comment commencing September 18, 2009. Oral or written comments relevant to these documents will be received at the November 5, 2009, meeting in Woodland. Written comments on these documents may be submitted to the Commission office (address given herein) until 5:00 p.m., November 5, 2009. 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 5, 2009.**

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) 445-7600, 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:

**Section 1.74, 5.87, 7.50, 8.00, and Section 701
Re: Report Card and Low-Flow 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 changes are necessary for the continued preservation of the resource and therefore the prevention of adverse economic impacts.

Sections 5.00, 5.30, 5.40, 5.82, 5.70, 5.83, and 7.50
Re: Sport Fishing Bag Limits

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.

Sections 5.79, 5.80, 5.81, 27.92 and subsection (c) of Section 701
Re: Sturgeon 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. A small number of fishing guides are reported to target green sturgeon with their clients, which would not result in a significant statewide adverse economic impact

Section 5.88, subsection (b)(2), (b)(3), (b)(5), (b)(18), (b)(22), (b)(27), (b)(35), (b)(47), (b)(65), (b)(66), (b)(68), (b)(69), (b)(70), (b)(72), (b)(73), (b)(91.1), (b)(102), (b)(107), (b)(129), (b)(130), (b)(133), (b)(150), (b)(154), (b)(155), (b)(156), (b)(180), (b)(193), (b)(200), and (b)(212) of Section 7.50, and subsection (i) of Section 701
Re: Statewide Steelhead Regulation Alignment and Smith River 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 changes are necessary for the continued preservation of the resource, while increasing statewide fishing opportunities, and therefore preventing adverse economic impacts.

All Proposed Sections

- (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.

All Proposed Sections

- (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.

All Proposed Sections

- (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

Dated: September 14, 2009

John Carlson, Jr.
Executive Director