

**State of California  
Office of Administrative Law**

**In re:**  
**Fish and Game Commission**

**Regulatory Action:**

**Title 14, California Code of Regulations**

**Adopt sections: 8.01**

**Amend sections:**

**Repeal sections:**

**NOTICE OF APPROVAL OF EMERGENCY  
REGULATORY ACTION**

**Government Code Sections 11346.1 and  
11349.6**

**OAL Matter Number: 2016-0316-03**

**OAL Matter Type: Emergency Readopt (EE)**

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In this second emergency readopt, the Fish and Game Commission (Commission) is readopting section 8.01 in title 14 of the California Code of Regulations that protects fisheries under critical conditions stemming from the drought by establishing a set of triggers to guide fishing closure and reopening actions. Closures will occur when specific triggering events occur including water temperatures exceeding 70° for over eight hours a day for three consecutive days. Other triggers include oxygen levels, water levels, breeding population and several others.

OAL approves this emergency regulatory action pursuant to sections 11346.1 and 11349.6 of the Government Code.

This emergency regulatory action is effective on 3/28/2016 and will expire on 6/28/2016. The Certificate of Compliance for this action is due no later than 6/27/2016.

Date: March 28, 2016

  
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Peggy J. Gibson  
Senior Attorney

For: Debra M. Cornez  
Director

Original: Sonke Mastrup  
Copy: Jon Snellstrom

# EMERGENCY

STATE OF CALIFORNIA—OFFICE OF ADMINISTRATIVE LAW

## NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 01-2013)

OAL FILE NUMBERS <b>Z-</b>	NOTICE FILE NUMBER	REGULATORY ACTION NUMBER	EMERGENCY NUMBER <b>2016-0316-03EE</b>
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For use by Office of Administrative Law (OAL) only

NOTICE	REGULATIONS
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**ENDORSED - FILED**  
in the office of the Secretary of State  
of the State of California

**MAR 28 2016**  
**1:53 pm**

2016 MAR 16 P 4: 53  
OFFICE OF  
ADMINISTRATIVE LAW

AGENCY WITH RULEMAKING AUTHORITY <b>Fish and Game Commission</b>	AGENCY FILE NUMBER (if any)
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### A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER	PUBLICATION DATE

### B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) <b>Measures for Fisheries at Risk Due to Drought Conditions</b>	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S) <b>2015-0626-01E, 2015-0626-01EE</b>
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2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)	
SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)	ADOPT <b>8.01</b>
TITLE(S) <b>14</b>	AMEND
	REPEAL

3. TYPE OF FILING			
<input type="checkbox"/> Regular Rulemaking (Gov. Code §11346)	<input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.	<input checked="" type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h))	<input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
<input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4)	<input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)	<input type="checkbox"/> File & Print	<input type="checkbox"/> Print Only
<input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))		<input type="checkbox"/> Other (Specify) _____	

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)

Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a))  Effective on filing with Secretary of State  \$100 Changes Without Regulatory Effect  Effective other (Specify) \_\_\_\_\_

6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

Department of Finance (Form STD. 399) (SAM §6660)  Fair Political Practices Commission  State Fire Marshal

Other (Specify) \_\_\_\_\_

7. CONTACT PERSON <b>Jon Snellstrom</b>	TELEPHONE NUMBER <b>(916) 653-4899</b>	FAX NUMBER (Optional)	E-MAIL ADDRESS (Optional) <b>jon.snellstrom@fgc.ca.gov</b>
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8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE <i>Melissa Miller-Henson</i>	DATE <b>03/16/2016</b>
TYPED NAME AND TITLE OF SIGNATORY <b>Melissa Miller-Henson, Staff Services Manager</b>	

For use by Office of Administrative Law (OAL) only

**ENDORSED APPROVED**

**MAR 28 2016**

Office of Administrative Law

## Regulatory Language

Section 8.01, Title 14, CCR is added to read:

### **Section 8.01. Special Gear Provisions~~[Repealed]~~Measures for Fisheries at Risk due to Drought Conditions.**

(a) In response to continued extreme drought conditions, the commission has established a quick response process to temporarily close fisheries experiencing degraded environmental conditions that may affect fish populations or their habitat within waters of the state. The criteria set forth in subsections (b) and (c) are intended to ensure that fisheries are protected under critical conditions stemming from the drought. These criteria will be monitored in statewide inland fisheries, and they will be evaluated on a water by water basis over time as conditions change.

(b) The department may close to angling any waters of the state not currently listed in Section 8.00 of these regulations if the director, or his or her designee, finds one or more of the following conditions have been met:

(A) Water temperatures in occupied habitat exceed 70° Fahrenheit for over eight hours a day for three consecutive days

(B) Dissolved oxygen levels in occupied habitat drop below 5 mg/L for any period of time over three consecutive days.

(C) Fish passage is impeded or blocked for fish species that rely on migration as part of a life history trait.

(D) Water levels for ponds, lakes and reservoirs drop below 10% of their capacity.

(E) Adult breeding population levels are estimated to be below 500 individuals.

(c) Waters closed pursuant to subsection (b) shall be reopened by the department when the director, or his or her designee, finds all of the following conditions have been met:

(A) Water temperatures in occupied habitat do not exceed 70° Fahrenheit over eight hours a day for seven consecutive days

(B) Dissolved oxygen levels in occupied habitat rise above 5 mg/L and are maintained at that level over seven consecutive days.

(C) Fish passage is available and no impediment exists to strand or concentrate adults or juveniles during their migration.

(D) Water levels for ponds, lakes and reservoirs have recovered to greater than 10% of their capacity.

(E) Adult breeding population levels are estimated to be recovered to greater than 500 individuals.

(d) It shall be unlawful to take fish in any waters of the state closed to angling pursuant to this Section.

(e) Notification of department actions.

(1) The department shall maintain a list of closed waters of the state and update that list on Wednesday of each week by 1:00 pm. In the event that water conditions change later in the week, the fishing status for each specific water will not change until the day following the next Wednesday. It shall be the responsibility of the angler to use the telephone number provided below or go to the department's website at <https://www.wildlife.ca.gov/Regulations> to obtain the current status of any water. The number to call for information is (916) 445-7600.

Note: Authority cited: Sections 200, 202 ~~and 210~~, 205, 240, and 315, Fish and Game Code. Reference: Sections 200, 202, 205 ~~and 210~~, 240, and 315, Fish and Game Code.